



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Adopt resolution authorizing the City Manager to execute loan documents, necessary to make a \$300,000 loan to Phase I of the Bow Street Apartments project and to restrict the affordability of the project units (CEQA Exempt)

MEETING DATE: July 12, 2017

PREPARED BY: Sarah Bontrager, Housing and Public Services Manager

DEPARTMENT HEAD: Darren Wilson, P.E., Development Services Director

RECOMMENDED ACTION:

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute loan documents necessary to make a \$300,000 loan to Phase I of the Bow Street Apartments project and to restrict the affordability of the project units.

BACKGROUND:

In June 2016, the City Council approved a conditional loan commitment of \$5 million to the Bow Street Apartments project (Project) proposed by Pacific West Communities, Inc. (Developer) to be located at 8627 Bow Street in Elk Grove. The 98-unit Project proposed a mix of one-, two-, and three-bedroom units affordable to households earning between 30% and 60% of the area median income. Project amenities include a community building with fitness equipment and computers, a swimming pool, a children's play area, and in-unit laundry.

Following the City's loan commitment, the Developer applied for financing from the California Tax Credit Allocation Committee and was awarded 9% tax credits. Due to tax credit pricing challenges caused by uncertainties in the future of the corporate tax rate, the Developer elected to bifurcate the

project and pursue a mix of 4% and 9% tax credits. As a result, the Project parcel will be split into two parcels with reciprocal access. The Phase I project will contain the 50-unit, 9% tax credit project, which will be owned by Elk Grove Pacific Associates II, LP. The Phase II project will contain the 48-unit, 4% tax-credit project, and will be owned by Elk Grove Pacific Associates III, LP. While the projects are legally separate, they will share amenities and property management and will be marketed under a common name.

DISCUSSION:

The City's conditional loan commitment included a loan term sheet defining the specific terms under which the City would make a loan to the Project, but did not contemplate the Project's bifurcation. The Developer has proposed splitting the City's funding based on the subsidy need of each project:

- Phase I (9% 50-unit project): \$300,000 City loan
- Phase II (4% 48-unit project): \$4,700,000 City loan

The Phase II project requires a greater amount of subsidy from the City because the 4% tax credit financing amount is lower, meaning the Phase II project has less ability to service monthly debt. The City's Phase I loan will be secured by the 50-unit project, and the Phase II loan will be secured by the 48-unit project. There will be no cross-collateralization of either loan. Prior to closing, the Developer will provide an appraisal which includes the "as stabilized" value of the property.

Staff worked with the Developer, the construction lender, and other entities involved in the Project to negotiate a set of loan documents for use in the transaction. At this time, only the Phase I loan documents are under consideration in order to meet the tight funding timeline for the 9% tax credit financing. The Phase II loan documents will be brought forward for approval at a later date. Aside from changes in the loan amount and payments made in order to accommodate the bifurcation, the loan documents are consistent with the loan term sheet.

The master loan document is the Loan Agreement (Attachment 2), which contains the following:

- Loan Agreement
- Legal Property Description

- Deed of Trust
- Financing Plan
- Construction Budget
- Promissory Note
- Guaranty of Non-Recourse Obligations
- Regulatory Agreement
- Subordination Agreement

The Loan Agreement spells out the terms of the loan, including compliance requirements for owning and managing the property and also provides conditions for disbursing funds. The Regulatory Agreement is recorded against the property to ensure that it is used as affordable housing for low-income households for a minimum period of 55 years. It also contains minimum property management standards.

The Subordination Agreement (in draft form pending Wells Fargo credit committee approval) subordinates the City's loan to the Project's senior financing, which means that in the event of a foreclosure, some of the loan provisions would no longer be enforceable and the City may not receive loan repayment. Additionally, the City's Deed of Trust securing the obligations under the Regulatory Agreement would no longer be enforceable, removing the City's option to foreclose on the property. However, many provisions of the Regulatory Agreement are not subordinated, meaning that the units would remain as affordable housing even in the event of foreclosure.

In addition to the Loan Agreement, the City also anticipates recording a Notice of Affordability Restrictions (Attachment 3), which is a short document that makes clear the ongoing obligation for the initial project owner and any subsequent owners to comply with the affordability provisions.

Provided the City Council approves the loan documents, the Phase I project is expected to close on all financing in late July, with construction beginning shortly thereafter. The Phase II project is projected to close in August, and will be constructed in tandem with the Phase I project.

ENVIRONMENTAL DETERMINATION:

CEQA Guidelines Section 15183 (Public Resources Code §21083.3), provides that projects which are consistent with a Community Plan, General Plan, or Zoning for which an environmental impact report (EIR)

has been certified “shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.”

An EIR was prepared and certified by the City Council as part of the City’s General Plan Housing Element Update in 2014 (SCH 2013082012), which included the Project site in the analysis. Additionally, an EIR was certified by the City Council for the adoption of the City of Elk Grove General Plan in 2003 (SCH 2002062082).

No potential new impacts related to the Project have been identified that would necessitate further environmental review beyond the impacts and issues already disclosed and analyzed in the General Plan EIR and the 2014 Housing Element Update EIR. No increase in development density beyond what was anticipated in the General Plan for the Project site would occur. No other special circumstances exist that would create a reasonable possibility that the proposed Project will have a significant adverse effect on the environment. Therefore, the proposed Project qualifies for the exemption under CEQA Guidelines Section 15183 and no further environmental review is required.

FISCAL IMPACT:

The total loan amount of the Phase I project under consideration is \$300,000. The loan amount to the Phase II project that will subsequently be considered is \$4,700,000. The funding is consistent with the \$5,000,000 loan commitment made in 2016, and the funds are available and budgeted within the Affordable Housing Fund.

The Affordable Housing Fund also has adequate funding to cover the staff time associated with reviewing and processing the loans.

ATTACHMENTS:

1. Resolution
2. Loan Agreement (including all exhibits)
3. Notice of Affordability Restrictions

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AUTHORIZING THE CITY MANAGER TO EXECUTE LOAN DOCUMENTS,
NECESSARY TO MAKE A \$300,000 LOAN TO PHASE I OF THE BOW STREET
APARTMENTS PROJECT AND TO RESTRICT THE AFFORDABILITY OF THE
PROJECT UNITS (CEQA EXEMPT)**

WHEREAS, the City of Elk Grove (City) has recognized the need to provide affordable housing to all economic segments of the City; and

WHEREAS, the City's affordable housing development impact fee provides financial resources to promote and assist in the development of new affordable housing in the City; and

WHEREAS, the Affordable Housing Fund (AHF) may be used to provide assistance with new rental residential development costs for low-income and very low-income housing; and

WHEREAS, Pacific West Communities, Inc., in partnership with Pacific Housing, Inc. and Kelley Ventures, LLC, proposed to develop a ninety-eight (98) unit affordable housing project, including one unrestricted unit available for the full-time property manager or the maintenance supervisor, known as Bow Street Apartments (Project), and submitted a request for gap financial assistance from the City to help achieve financial feasibility for the project and maximize the affordability of project units; and

WHEREAS, on June 22, 2016, the City Council approved a conditional loan commitment of \$5 million to the Project; and

WHEREAS, subsequent to the conditional loan approval, the Developer acquired two funding sources, each of which required the Project to be bifurcated into two separate projects; and

WHEREAS, the Developer proposes to develop one, 50-unit project using 9% tax credit financing and a \$300,000 loan from the City (Phase I Project); and a second, 48-unit project using 4% tax credit financing and a \$4,700,000 loan from the City (Phase II Project); and

WHEREAS, staff has negotiated a set of loan documents, including a Loan Agreement (with exhibits) and Notice of Affordability Restrictions, for the Phase I project; and

WHEREAS, the Project qualifies as a project under the California Environmental Quality Act (CEQA), Public Resource Code §§21000 et seq.; and

WHEREAS, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning) of Title 14 of the California Code of Regulations (State CEQA Guidelines) provides an exemption from CEQA for projects that are consistent with the applicable General Plan and Zoning for which an EIR was certified.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove finds that no further environmental review is required under the California Environmental Quality Act for the Project pursuant to State CEQA Guidelines Section 15183 based upon the following finding:

Finding: No further environmental review is required under the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15183 (Consistency with a General Plan, Community Plan, or Zoning for Which an EIR was Prepared).

Evidence: CEQA Guidelines Section 15183 (Public Resources Code §21083.3), provides that projects which are consistent with a Community Plan, General Plan, or Zoning for which an environmental impact report (EIR) has been certified “shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.” An EIR was prepared and certified by the City Council as part of the City’s General Plan Housing Element Update in 2014 (SCH 2013082012), which included the Project site in the analysis. Additionally, an EIR was certified by the City Council for the adoption of the City of Elk Grove General Plan in 2003 (SCH 2002062082).

No potential new impacts related to the Project have been identified that would necessitate further environmental review beyond the impacts and issues already disclosed and analyzed in the General Plan EIR and the 2014 Housing Element Update EIR. No other special circumstances exist that would create a reasonable possibility that the Project will have a significant adverse effect on the environment. Therefore, the Project, and the approval of the required Density Bonus to approve concessions required to develop the Project, qualifies for the exemption under CEQA Guidelines Section 15183 and no further environmental review is required.

AND, BE IT FURTHER RESOLVED that the City Council of the City of Elk Grove hereby authorizes the City Manager to execute loan documents, in substantially the form presented, necessary to make a \$300,000 loan to Phase I Project and to restrict the affordability of the Phase I Project units.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 12th day of July 2017.

STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, CITY CLERK

JONATHAN P. HOBBS,
CITY ATTORNEY

**AFFORDABLE HOUSING LOAN AGREEMENT
Development Loan for Bow Street Phase I Affordable Housing Project
(\$300,000)**

This Loan Agreement (“Agreement” or “Loan Agreement”) is made this 24th day of July, 2017, by and between the CITY OF ELK GROVE, a California municipal corporation (“Lender” or “City”), and ELK GROVE PACIFIC ASSOCIATES II, a California Limited Partnership (“Borrower” or “Owner”).

RECITALS

A. Borrower proposes in its own name, to develop a fifty (50) unit housing project (the “Project”) at a site located at 8627 Bow Street – APN 115-0162-033, Elk Grove, California, as more particularly described in Exhibit A, attached hereto and incorporated herein (the “Property”). One (1) of the fifty (50) units shall be dedicated for the use of the Property Manager, and shall not be rent-restricted. Forty-nine (49) of the fifty (50) units (the “Regulated Units”) shall be rent-restricted. Of the Regulated Units, seven (7) shall be restricted at rents affordable to extremely low-income households, thirty-nine (39) shall be restricted at rents affordable to very low-income households, and three (3) shall be restricted at rents affordable to low-income households, in accordance with the Regulatory Agreement of even date herewith between Borrower and Lender.

B. Borrower wishes to borrow from Lender and Lender wishes to extend to Borrower a loan from the Lender’s Affordable Housing Fund to support development of the Project (the “Loan”). This Loan is being made to help achieve financial feasibility for the Project and maximize the affordability of Project units.

C. A Promissory Note shall be executed by Borrower evidencing this Loan, to be secured by a Deed of Trust, executed by Borrower and recorded against the Property. In addition, a Regulatory Agreement shall be executed by Borrower, and recorded against the Property, to secure Lender’s continuing interest in the affordability and habitability of the Project, as well as to secure performance of other covenants contained in these agreements.

D. Borrower intends to subdivide the Property and sell a portion of the subdivided Property to Elk Grove Pacific Associates III, a California Limited Partnership (“Phase 2 Owner”). Borrower and Lender shall execute such further documents as may be needed to reflect such subdivision and release the Phase 2 Parcel (as defined below) from collateral under the Loan Documents as further described below. Phase 2 Owner shall execute loan documents substantially similar to the terms of the Loan Documents, in coordination with a separate loan from Lender to Borrower in connection with the development of a forty-eight (48) unit affordable housing project on the Phase 2 Parcel (the “Phase 2 Loan”).

NOW, THEREFORE, Borrower and Lender hereby agree as follows:

The foregoing Recitals are true and correct and incorporated into this Loan Agreement.

DEFINITIONS

The following terms have the meanings set forth below wherever used in this Agreement, attached Exhibits, or documents incorporated into this Agreement by reference.

1. **Borrower** means Elk Grove Pacific Associates II, a California Limited Partnership, along with any assigns, transferees, or successors-in-interest. Borrower will also be the owner of the Property and will cause the Project to be constructed.

2. **Certificate of Occupancy** means a final certificate of occupancy issued by the City to Owner for the Project.

3. **City** means the City of Elk Grove, a California municipal corporation.

4. **Clear Title** means fee title without liens or encumbrances except: (i) as provided for herein, (ii) any exception to title shown on the City's title policy, or (iii) otherwise approved by the Lender in writing.

5. **Deed of Trust** means that Deed of Trust, Assignment of Rents, and Security Agreement and Fixture Filing encumbering the Property as security for the Loan in the form attached hereto as Exhibit B, executed and delivered by Borrower as trustor with Lender as beneficiary, as well as any amendments to, modifications of, and restatements of said Deed of Trust. The terms of the Deed of Trust are hereby incorporated into this Agreement by this reference.

6. **Developer Fee** means all funds paid at any time as compensation for developing the proposed project, to include all development consultant fees, processing agent fees, developer overhead and profit, construction management oversight fees if provided by the developer, personal guarantee fees, and syndicator consulting fees.

7. **Development Costs** means any costs associated with the acquisition of the Property and the development and construction of the Project that are incurred by the Borrower consistent with the costs described in the Project's Financing Plan.

8. **Events of Default** means any of the events described in Section 64 of this Agreement.

9. **Financing Plan** means that preliminary financing plan for the Project approved by the City in writing prior to the Loan closing and further described in Exhibit C, which describes (i) the estimated costs of Project development, including acquisition costs, and hard and soft construction costs, (ii) an operating pro forma which describes projected revenue and expenses for the Project, and (iii) identification of sources of construction and permanent financing.

10. **Hazardous Materials** is defined as set forth in Section 59 of this Agreement. Hazardous Materials do not include substances that are used or consumed in the normal course of developing, operating, or occupying a housing project, to the extent and degree that such substances are stored, used, and disposed of in the manner and in amounts that are consistent with normal practice and legal standards.

11. **Investor Limited Partner** means Wells Fargo Affordable Housing Community Development Corporation, a North Carolina corporation, and its successors, affiliates and assigns.

12. **Lender** means the City of Elk Grove, a municipal corporation, and any assigns, transferees, or successors-in-interest.

13. **Loan** means the loan of funds provided by Lender to Borrower made pursuant to the Loan Documents.

14. **Loan Documents** means collectively this Loan Agreement, the Deed of Trust, the Note, the Regulatory Agreement, the Subordination Agreement, and any other document required for the funding of the Loan. All terms and conditions of the Loan Documents are incorporated into this Agreement by reference. In the event of conflict between terms contained in these Loan Documents, the more specific term shall control; however, if neither term is more specific, the terms in the exhibits shall govern over conflicting provisions.

15. **Note** means that Promissory Note to be executed by Borrower in favor of Lender evidencing the Loan in the form attached hereto as Exhibit D, which is to be secured by the Deed of Trust, as well as any amendments to, modifications of, or restatements of the Note. The terms of the Note are hereby incorporated into this Agreement by this reference.

16. **Owner** means Elk Grove Pacific Associates II, a California Limited Partnership. All references in this Agreement and the other Loan Documents to “Owner” shall also be construed as references to “Borrower.”

17. **Plans and Specifications** means all construction documents upon which Borrower and Borrower’s contractors shall rely in constructing the Project (including the landscaping, parking, and common areas) and shall include, without limitation, the site development plan, final architectural drawings, landscaping, exterior lighting and signage plans and specifications, materials specifications, final elevations, and building plans and specifications. The Plans and Specifications shall be based upon the scope of development set forth herein and upon the approvals issued by the City for the Project, and shall not materially deviate therefrom without the express written consent of City.

18. **Project** means the development and operation of the Property according to the terms of the Loan Documents.

19. **Project Stabilization** means the occurrence in the Project of ninety-five (95) percent occupancy for ninety (90) consecutive days.

20. **Property** means the real property described in the attached Exhibit A, which is incorporated into this Agreement by this reference, and any buildings, structures, or improvements now or hereafter situated on this real property.

21. **Property Manager** means the person or firm charged with operating the Project on a day-to-day basis on behalf of the Owner.

22. **Regulatory Agreement** means that Regulatory Agreement to be executed by Owner and Lender and recorded against the Property in the form attached hereto as Exhibit E, as well as any amendments to, modifications of, and restatements of the Regulatory Agreement.

23. **Regulated Units** means: (a) the seven (7) rental dwelling units constructed for the Project for residents whose household income is at or below 30% of the Area Median Income and having the following composition: one (1) one-bedroom units, four (4) two- bedroom units, and two (2) three-bedroom units; (b) the twenty-two (22) rental dwelling units constructed for the Project for residents whose household income is at or below 45% of the Area Median Income and having the following composition: six (6) one-bedroom units, eleven (11) two- bedroom units, and five (5) three-bedroom units; (c) the seventeen (17) rental dwelling units constructed for the Project for residents whose household income is at or below 50% of the Area Median Income and having the following composition: four (4) one-bedroom units, eight (8) two-bedroom units, and five (5) three-bedroom units; and (d) the three (3) rental dwelling units constructed for the Project for residents whose household income is at or below 60% of the Area Median Income and having the following composition: one (1) one-bedroom unit, one (1) two-bedroom unit, and one (1) three-bedroom unit.

24. **Senior Lender** means Wells Fargo Bank, National Association, during the construction of the Project, and/or any senior lender approved by the City in writing pursuant to Section 29.

25. **Subordination Agreement** means that certain Subordination Agreement dated on or about July 24, 2017 between the Borrower, Lender, and Senior Lender, and attached hereto as Exhibit F.

TERMS OF LOAN

26. **Loan.** Lender agrees to provide a loan of funds to Borrower under the terms and conditions of the Loan Documents. The proceeds of this Loan shall be used only to pay for development and construction costs of the Project, or repayment of the construction financing, that are consistent with the Financing Plan approved by the City. Lender further agrees to identify the source(s) of funding, and to allocate and specifically reserve the funding for this Project.

27. **Amount of Loan.** Subject to the terms and conditions of the Loan Documents, Lender agrees to make and Borrower agrees to accept a Loan in an amount not to exceed THREE HUNDRED THOUSAND DOLLARS (\$300,000) evidenced by the Note in this amount. Payment of the Loan shall be made by Borrower as set forth in the Note.

28. **Interest.** The Note shall bear simple interest at the rate of four percent (4%) per annum on the outstanding principal amount disbursed, commencing on the date of each disbursement of loan proceeds under the terms and conditions set forth in the Note.

29. **Term of Loan.** Payments of principal and interest shall be made as required by the Note. Unless due sooner under the Note, the Loan principal balance and all accrued interest shall be due and payable on the earliest of (a) thirty-seven (37) years from the date of the

issuance of a Certificate of Occupancy for the Project, (b) the date the Property is sold or the Borrower's interest in the Property is transferred or conveyed (except as specifically contemplated herein or as permitted in the Deed of Trust or as otherwise consented to in writing by the City), (c) an Event of Default by Borrower which has not been cured as provided for in this Agreement, or (d) December 31, 2055.

Lender approval shall be required for any proposed refinancing, including of the senior permanent financing, such approval not to be unreasonably withheld; provided, however, that Lender approval shall not be required for any refinancing of senior debt that does not increase the principal amount existing at the time of refinancing and does not otherwise materially change the terms of the senior loan. In the event of refinancing (other than the refinancing of the construction loan with the permanent loan) that provides cash proceeds to the Borrower, the Borrower shall be required to pay off or down, as applicable, the Loan balance by the amount of refinance proceeds received by the Borrower, net of the senior loan payoff and all closing and other transaction costs relating to this refinance. Any such loan payment shall have no effect on the applicability to the Regulatory Agreement, which shall remain in full force and effect for the full term of the Regulatory Agreement.

30. **Prepayment of Loan.** No prepayment penalty will be charged to Borrower for prepayment of any portion of the Loan amount prior to the end of the Loan term. Upon such prepayment, the Agreement shall terminate; however, prepayment of the entire outstanding balance of the Loan shall not affect Borrower's obligation under the Regulatory Agreement, which shall remain in full force and effect for the entire term of the Regulatory Agreement, and any other Loan Document that remains in effect beyond prepayment of the Loan.

31. **Prevailing Wage.** It is the responsibility of the Borrower to determine whether state or federal prevailing wages apply to the Project. It is the responsibility of the Borrower to pay any required prevailing wages if and when required by California state or federal law. Notwithstanding the foregoing, the City has not imposed and shall not impose in the future unless required by law, and nothing in this agreement shall be construed as imposing any independent prevailing wage requirements that are different from those imposed by applicable federal or state law. Borrower shall indemnify, defend and hold harmless the City and any of its employees, officers, or agents against any claim by any party related to compliance with applicable prevailing wage law, and Borrower shall be liable for the payment of all damages, penalties, wages, and attorneys' fees and costs arising out of any such claim.

LOAN DISBURSEMENT

32. **Conditions Precedent to Disbursement.**

A. Subject to the provisions of this Agreement, the Loan shall be disbursed through escrow according to the following schedule:

i. Lender shall fund up to ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000) when the Project's framing inspection for all buildings is certified as complete by the City's Building Official, provided that Borrower has posted payment and performance bonds for the full amount of the construction contract.

ii. Lender shall fund up to SIXTY THOUSAND DOLLARS (\$60,000) when the Project has received temporary Certificates of Occupancy for all buildings and the Lender has received proof that no liens filed by general contractor, subcontractor, material supplier, equipment lessor, laborer, and/or design professional (collectively, “Mechanic’s Liens”) have been filed, within the applicable statutory time period to file such action, or proof to Lender’s satisfaction that Borrower has posted a bond, at Borrower’s expense, from which to pay any judgment later entered against Borrower or the Property as a result of the Mechanic’s Lien, and proof of Clear Title to the satisfaction of the Lender; any bond issued pursuant to this section shall be in an amount sufficient to fully satisfy the Mechanic’s Lien, plus other recoverable costs and attorneys’ fees resulting from a judgment against Borrower.

iii. Lender shall fund up to SIXTY THOUSAND DOLLARS (\$60,000) when the Project has received final Certificates of Occupancy for all buildings and the Lender has received proof that (i) Mechanic’s Lien releases have been received, in a form acceptable to the City, or no Mechanic’s Liens have been filed, within the applicable statutory time period to file such action, (ii) a date down endorsement to the City’s title policy in a format acceptable to the City, or (iii) proof to Lender’s reasonable satisfaction that Borrower has posted a bond, at Borrower’s expense, from which to pay any judgment later entered against Borrower or the property as a result of the Mechanic’s Lien (each “Acceptable Title”); any bond issued pursuant to this section shall be in an amount sufficient to fully satisfy the Mechanic’s Lien, plus other recoverable costs and attorneys’ fees resulting from a judgment against Borrower.

iv. Lender shall fund up to THIRTY THOUSAND DOLLARS (\$30,000), less any cost savings as described further in Section 42, upon receipt of: (1) submittal to the City of the Project’s Cost Certification prepared and signed by a third party Certified Public Accountant, (2) a final construction inspection by Lender confirming that the Project was built in material compliance with the plans approved by City, including any design elements, and (3) the Lender has received proof of Acceptable Title.

In the event that Lender determines, following its final inspection, that the Project was not constructed in accordance with the Plans and Specifications, then Lender shall notify Borrower and Senior Lender of its findings and provide Borrower with a reasonable time to conform the Project to the Plans and Specifications. Should Borrower not conform the Project to the Plans and Specifications to the satisfaction of the Lender, Lender may deduct the reasonable value of the nonconforming specification from its final disbursement.

v. Lender shall fund up to THIRTY THOUSAND DOLLARS (\$30,000) when the Project has achieved Project Stabilization. Prior to Project Stabilization, this amount shall be held in a non-interest bearing escrow account at the City as an operating reserve, over which the City shall have joint signing authority with Borrower until Project Stabilization. Borrower shall provide Lender with written verification of Project Stabilization to the Lender’s reasonable satisfaction, whereupon such \$30,000 shall be disbursed to Borrower pursuant to this provision.

B. Lender shall disburse loan proceeds upon satisfaction of the following conditions:

i. Borrower has acquired and maintains Clear Title to the Property to the satisfaction of the Lender. Borrower shall provide Lender with proof of Clear Title upon each disbursement request.

ii. Borrower has provided an appraisal to the City prior to the closing date, which includes the “as stabilized” value of the Property.

iii. Borrower has submitted to Lender evidence reasonably satisfactory to Lender demonstrating the Borrower has obtained all financing for the Project and Lender has approved the financing for the Project, including a construction loan, permanent loan, and nine percent (9%) tax credit equity financing. Copies of all executed agreements for Project financing, and related documentation, must be submitted to the Lender prior to the first loan disbursement.

iv. Borrower has executed and delivered to Lender each of the Loan Documents to be executed by Borrower in a form and substance satisfactory to Lender.

v. As of the date of proposed disbursement, there exists no Event of Default as described in this Loan Agreement, by Borrower nor any act, failure, omission or condition that with the giving of notice would constitute an Event of Default (subject to applicable cures).

vi. Borrower has delivered all documents, including evidence of insurance coverage, as required under the Loan Documents, and other documents, instruments, policies and forms of evidence or other materials reasonably requested by Lender under the terms of this Agreement and any of the Loan Documents.

vii. Borrower has delivered evidence of payment bonding and performance bonding for the full value of the Project improvements as shown in the Plans and Specifications, and confirmed as effective by the bonding agent. The bonding agent must be a reputable insurance company licensed to do business in California.

viii. Lender has received, at Borrower’s sole cost and expense, an ALTA Loan Extended Coverage Policy of Title Insurance in favor of the Lender with a liability limit in the amount of the Loan, insuring that the Deed of Trust is a lien on fee title to the Property vested in Borrower, reflects that the Lender is subordinate only to the senior secure debt identified in the Subordination Agreement, and subject only to such exceptions as are accepted in writing by Lender. The Lender must review and approve the pro forma ALTA loan policy to be issued by the title company selected for loan closing.

ix. All of the representations and warranties made by the Borrower in this Agreement and in any of the other Loan Documents are true and correct as of the date of the proposed disbursements in all material respects.

C. If no proceeds of the Loan have been disbursed by December 24, 2018, Lender shall have no obligation to disburse the Loan and this Agreement and the Loan Documents shall terminate without notice and with no penalty for Lender or Borrower, except

that Borrower shall reimburse City for fees and other costs City has expended, or will expend, related to this Loan and Project.

SUBDIVISION OF PROPERTY; RECIPROCAL EASEMENT AGREEMENT

33. **Subdivision of Property.** Lender acknowledges that Borrower intends to subdivide the Property (the “Subdivision”) into two legal parcels, which shall be comprised of one parcel containing the Project (the “Project Parcel”) and one parcel (the “Phase 2 Parcel”) on which the Phase 2 Owner shall construct and develop a separate affordable housing project (the “Phase 2 Project”). In connection therewith, Borrower shall deliver to Lender each of the following, which shall be in form and substance acceptable to Lender in its reasonable discretion: (1) a proposed parcel map or other instrument evidencing the Subdivision and creation of the Project Parcel and Phase 2 Parcel, (2) a proposed Reciprocal Maintenance and Use Agreement or other instrument granting Borrower and its invitees access to and over and use of such portions of the Phase 2 Parcel and Phase 2 Project, and including such other terms as may be reasonably required by Lender (the “Reciprocal Easement Agreement”), and (3) a pro forma endorsement to Lender’s title policy ensuring that, upon completion of the Subdivision, the Deed of Trust shall remain a valid lien upon the Project Parcel, subject only to liens and encumbrances approved by Lender, along with any other pro forma endorsements Lender may require.

34. **Conveyances and Reconveyances.** Lender acknowledges that after the Subdivision and creation of the Project Parcel and Phase 2 Parcel, Borrower intends to convey the Phase 2 Parcel to the Phase 2 Owner. Prior to the conveyance of the Phase 2 Parcel to the Phase 2 Owner, Borrower shall have delivered to Lender each of the following, which shall be in form and substance acceptable to Lender in its reasonable discretion: (i) proposed instruments evidencing the proposed conveyance of the Phase 2 Parcel to the Phase 2 Owner, and, (ii) if required by Lender, proposed execution-ready copies of partial release and reconveyance instruments releasing the Phase 2 Parcel from the liens and encumbrances of the Deed of Trust and Lender’s Regulatory Agreement recorded against the Project Parcel in connection with the Loan. Upon receipt and approval of the foregoing, completion of the Subdivision, conveyance of the Phase 2 Parcel as contemplated herein, and Lender’s receipt of evidence satisfactory to Lender that Senior Lender has released and reconveyed, or concurrently with Lender, shall release and reconvey, the Phase 2 Parcel from the lien of Senior Lender’s deed of trust, Lender shall execute a partial release and reconveyance instrument releasing the Phase 2 Parcel from the liens and encumbrances of the Deed of Trust and its Regulatory Agreement, and if deemed necessary, Lender shall amend the Deed of Trust, Regulatory Agreement, and its other Loan Documents in order to reflect the modified Property collateral secured thereunder or encumbered thereby, provided that the terms of any such amendment(s) are satisfactory to the Lender. In no event shall this Loan and the Phase 2 Loan at any time be cross-defaulted or cross-collateralized. In connection therewith, if required by Lender, Lender shall receive an endorsement to its title policy as described hereunder.

DEVELOPMENT AND OPERATION OF PROJECT

35. **Financing Plan.** The Financing Plan must be and remain in a form and content that satisfies the requirements of the City. Borrower may update the Financing Plan throughout

the term of this Agreement, provided that Borrower shall request and obtain prior written approval from the City, not to be unreasonably withheld, of any proposed modifications. If the City fails to approve of any such modification within fifteen (15) business days following City's receipt of the proposed modifications, then the Financing Plan and the encumbrances which may be recorded against the Property in connection with the financing contemplated by the Financing Plan shall be deemed disapproved by the City unless otherwise agreed to by City in writing. City and Borrower shall negotiate in good faith to resolve any disputed terms. The City agrees not to unreasonably withhold consent to proposed modifications to the Financing Plan. The City acknowledges that Borrower contemplates obtaining permanent senior financing from Rabobank, N.A. While the City shall have approval rights over the final permanent senior loan documents (not to be unreasonably withheld), as of the date hereof, the City has no objection to the terms of the permanent loan commitment from Rabobank, N.A.

A. Notwithstanding anything to the contrary contained herein, change orders and/or budget line item adjustments less than seventy-five thousand dollars (\$75,000) for construction and less than twenty-five thousand dollars (\$25,000) for soft costs shall be deemed approved without prior approval of the City, but a complete description of such change orders shall be submitted to the City within fifteen (15) calendar days of initiation of such work. Any change order and/or budget line item adjustment equal to or exceeding seventy-five thousand dollars (\$75,000) for construction or twenty-five thousand dollars (\$25,000) for soft costs shall be submitted to the City for approval at least ten (10) business days prior to commencement of the work described therein. City shall respond to such request for approval within ten (10) business days of receipt of said change order and shall not withhold approval unreasonably.

In the event that the Borrower approves change orders or other line item budgets adjustments in excess of the above-noted amounts and without the City's written authorization prior to approval, Borrower will pay liquidated damages in the amount of the unauthorized amount, plus five percent (5%) administrative cost, not to exceed FIVE THOUSAND DOLLARS (\$5,000) per incident. The parties agree this liquidated damages amount is a reasonable estimation of City's damages, and that the amount of liquidated damages shall be deducted from the available City loan amount. This provision shall remain in full force and effect even if the parties fail to expressly initial where indicated below.

Initials: Borrower _____, City Manager _____.

B. The release of funds from both the Project hard cost and soft cost contingency accounts shall require prior written approval from the City, not to be unreasonably withheld. Release of funds of up to \$25,000 per Financing Plan line item from the soft cost contingency account and/or of up to \$75,000 per Financing Plan line item from the hard cost contingency account shall be deemed approved. City shall respond within five (5) business days of City's receipt of a Complete Request for the release of funds or such request will be deemed approved. For the purposes of this Section, a "Complete Request" shall mean copies of invoices, change orders, or proposals substantiating the entire cost, documentation regarding the need for the work, or other documentation needed by the City to determine cost reasonableness. Senior Lender shall not be responsible for compliance with this provision.

36. **Configuration of the Project.** Borrower shall develop the Project in reasonable conformance with the Plans and Specifications as approved by the City of Elk Grove, Development Services Department, as a residential project, in accordance with Recital A of this Agreement and the Regulatory Agreement. As stated in the City's Affordable Housing Loan Program Guidelines, and acknowledged by the Borrower during submittal of the loan application, the number of affordable units produced by a Project is a significant characteristic. Should the Borrower determine that any of the affordable units (Regulated Units) must be converted to market-rate units, a downward adjustment to the total loan amount, equivalent to the City subsidy per affordable unit (\$51,546.40 per unit) described at the time of conditional loan commitment, shall be applied to the total loan amount at the City Manager's sole discretion. City Loan funds are dedicated to subsidizing affordable housing units. If the total Loan amount has been disbursed by the Lender and affordable units are converted to market-rate units, Borrower must reimburse Lender for the downward adjustment, equivalent to the City subsidy per affordable unit described at the time of conditional loan commitment, for each affordable unit converted.

37. **Changes in Financing.** Borrower must immediately inform Lender of any proposed changes in the amount, terms, or sources of indebtedness for the Project. Subject to the terms and conditions of the Subordination Agreement, Lender may, in its reasonable discretion, deny any such proposed changes that increase the principal amount of or material terms of the senior indebtedness identified in the Subordination Agreement or permit Borrower to use funds provided to Borrower under the senior loan documents for purposes that do not directly benefit the Property, except that Lender may, in its sole and absolute discretion, deny any such proposed changes that adversely affect, or could potentially adversely affect, Lender's subordinate loan position. Lender's consent shall not be required for any refinancing of the senior debt that does not increase the principal amount existing at the time of the refinancing and does not otherwise materially change the terms of the senior loan.

The City Manager may also approve the application of a downward adjustor to the total Loan amount at any time that the Borrower obtains third party Project financing from bonds, loans, equity, or other financing at an amount higher than anticipated subsequent to receipt of the loan amounts approved at the time of closing for the Loan. The downward adjustor shall not be applied in the event that excess proceeds are used to pay down the senior loan and/or the Developer Fee, up to the maximum allowed by the Loan Documents.

38. **Completion of Construction.** Borrower shall commence construction within thirty (30) calendar days following the City's issuance of building permits for the Project and must complete construction not later than 24 months thereafter, which construction period shall be subject to a six (6) month extension at the request of Borrower provided that no default shall have occurred and be continuing under this Agreement, and provided that the Construction Loan is extended for a period equal to any extension. For the purposes of this Section, "Construction Loan" shall mean the loan made to the Borrower by Wells Fargo Bank, National Association in the approximate amount of ten million four hundred thousand dollars (\$10,400,000).

39. **Contracts and Subcontracts.** All construction subcontracts must be competitively and publicly bid, with a minimum of three qualified bids for each trade and/or subtrade. Borrower to provide all bid records to Lender upon request. Borrower must make a

reasonable effort to secure a minimum of three qualified bids, including by publicly publishing notices related to bid opportunities in local or regional newspapers and providing plans and bid documents online. Borrower shall provide Lender with a list of all bids received by Borrower, including the name of the bidder and contact information, and the bid details. At the sole discretion of the City Manager or designee, Lender may allow Borrower to proceed with fewer than three qualified bids for a trade or subtrade, provided that Borrower has documented a thorough effort to obtain bids.

Awards to any firm other than the lowest responsive and responsible bidder, in cases where the selected firm's bid exceeds the lowest responsive and responsible bid by more than twenty (20) percent, must be approved in advance by the City. Procurement of non-construction goods and services shall be substantiated by a minimum of three cost estimates for like items for all purchases over seventy-five thousand dollars (\$75,000); if the lowest-cost provider is not selected, written justification must be provided. City shall respond to such requests for approval within ten (10) business days of receipt of said request and shall not withhold approval unreasonably.

For each instance of non-compliance with this term, Borrower shall pay liquidated damages in the amount of \$5,000. The parties agree this liquidated damages amount is a reasonable estimation of City's damages, and that the amount of liquidated damages shall be deducted from the available City loan amount. This provision shall remain in full force and effect even if the parties fail to expressly initial where indicated below.

Initials: Borrower _____, City Manager _____.

All construction work and professional services for the Project shall be performed by persons or entities licensed or otherwise authorized to perform the applicable construction work or service in the State of California. Borrower shall insert similar provisions in all subcontracts for work covered by this Agreement. No work on the Project that could result in a lien shall commence prior to Recordation of the Deed of Trust, unless prior arrangements satisfactory to both the City and the title insurance company have been made, in writing and signed by the City Manager.

40. **Construction Pursuant to Plans and Specifications.** Borrower shall develop the Project in accordance with the approved Plans and Specifications, the City's Conditions of Approval dated as of June 6, 2016 Resolution 2A-2016-3, and as may be subsequently amended, and all other permits and approvals granted by the City pertaining to construction of the Project. Borrower shall comply with all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency having jurisdiction over the Property or the Project. Each element of the work shall proceed only after procurement of each permit, license, or other authorization that may be required for such element by any governmental agency having jurisdiction.

If Borrower desires to make any Material Change in the approved Plans and Specifications (including all requests for change orders), Borrower shall submit the proposed change in writing to City in accordance with its standard review process. Nothing in this Section is intended to or shall be deemed to modify the City's standard plan review procedures. For the

purposes of this Section, “Material Change” shall mean (i) any change to Project scope or quality, including but not limited to, design feature changes, material or equipment selection changes, Project configuration changes, changes to number and types of units, reduction in the number of parking spaces, and changes to recreational or other amenities of or for the improvements; and/or (ii) any change that adversely affects the health or safety of the current or future tenants of the Project; and/or (iii) any change that adversely impacts the marketability of the Project; and/or (iv) any change which is anticipated to significantly impact the ongoing operational costs of, or income potential for, the Project or its long term feasibility.

41. **Quality of Work.** Borrower shall construct the Project in conformance with general industry standards and shall employ building materials of a quality suitable for the requirements of the Project. Borrower shall develop the Project in compliance with applicable local, state, and federal statutes, regulations, and building and housing codes. Borrower shall ensure that the Project is constructed in material compliance with the Plans and Specifications. If the City Manager determines that there have been Material Changes to the Project design at construction completion when compared to the Plans and Specifications, which modifications were not previously approved by the City, the City Manager may halt the issuance of Certificates of Occupancy until corrections have been made by the Borrower or implement a downward adjustment to the City total Loan amount to recognize any cost savings the Borrower obtained due to changes in Project design.

42. **Cost Savings.** Any cost savings recognized by the Borrower as a result of acquisition and construction costs lower than anticipated in the Borrower’s Financing Plan and which are not compensated by downward adjustments to the tax credit financing, permanent mortgage principal, or other approved sources, shall be transferred to the Lender, which shall apply the funds to reduce the balance of the Loan to the extent allowed by the California Tax Credit Allocation Committee.

43. **Developer Fee.** Developer Fee shall not exceed the lesser of (a) the amount identified in the Financing Plan, or (b) one million dollars (\$1,000,000). Borrower may not pay any portion of the Developer Fee until Project Stabilization and permanent loan closing.

44. **Records.** Borrower shall be accountable to Lender for all funds requested by and disbursed to Borrower pursuant to this Agreement. Borrower shall maintain records that fully and accurately show expenditures for at least three (3) years after completion of the Project as evidenced by the issuance of a Certificate of Occupancy. Borrower shall make records available for review by Lender’s representatives prior to any Loan disbursement. Records must be kept accurate and up-to-date. Lender shall notify Borrower of any records it deems insufficient, at which time the Borrower shall have thirty (30) calendar days from such notice to correct any specified deficiency in the records, or, if more than thirty (30) days shall be reasonably necessary to correct the deficiency, Borrower shall begin to correct the deficiency within thirty (30) days and diligently pursue the correction of the deficiency as soon as reasonably possible.

45. **Audits.** Borrower shall make available for examination at reasonable intervals and during normal business hours to Lender’s representatives all books, accounts, reports, files, and other papers or property with respect to all matters covered by these Loan Documents, and shall permit these representatives to audit, examine, and make copies, excerpts, or transcripts

from such records. Lender's representatives may make audits of any conditions relating to this Loan. Lender must expressly approve of the company, person(s), or firm auditing the financial statements of the Project.

46. **Encumbrance of Property.** Borrower shall not engage in any financing or any other transaction creating any security interest or other encumbrance or lien upon the Property and/or Project, whether by express agreement or operation of law, or allow any encumbrance or lien to be made on or placed on the Property and/or Project, except with the prior written consent of Lender or as otherwise specifically authorized under this Agreement. Notwithstanding the foregoing, the following are hereby approved as security interests encumbering the Property (the "Permitted Encumbrances"):

A. Deed of trust in favor of Senior Lender securing the certain reimbursement obligations and the construction loan (the "Senior Loan"). The Senior Loan shall not exceed TEN MILLION FOUR HUNDRED THOUSAND DOLLARS (\$10,400,000); and

B. Any regulatory agreement or other documents which Senior Lender requires to be recorded for the Senior Loan, which are not in conflict with the Loan Documents; and

C. The Extended Use Agreement required by the California Tax Credit Allocation Committee; and

D. Any other documents approved in writing by Lender or shown in Lender's title policy.

Until issuance of a Certificate of Occupancy, Borrower shall notify Lender, in writing, in advance of any financing secured by any deed of trust, mortgage, or other similar lien instrument that it proposes to enter into with respect to the Project or Property, or any encumbrance or lien that has been attached to the Property or Project, whether voluntary or involuntary.

Lender further agrees to execute the Subordination Agreement required to effectuate the foregoing in a form and substance acceptable to Lender and Senior Lender. Except as expressly set forth above, this Agreement shall not be subordinated in priority to any other interest in the Property that was not recorded prior to the date of recordation of this Agreement, unless City consents, in writing, to the subordination or junior priority of this Agreement and that the City is provided written commitments reasonably designed to protect the City's investment as described above in this Section. Borrower shall not waive, postpone, extend, reduce or otherwise modify any provision of the Senior Loan without first obtaining the written consent of the Lender. Notwithstanding the foregoing, the Regulatory Agreement shall not be subordinate to the Senior Loan as provided for in Section 78 of this Agreement.

47. **Transfer of Property and Project.** Transfer of the Property and Project shall not occur except as permitted by the Deed of Trust.

In the event of a Transfer, Borrower shall reimburse City for all City costs, including but not limited to reasonable attorneys' fees, incurred in reviewing instruments and other legal

documents proposed to affect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee within ten (10) days following City's delivery to Borrower of an invoice detailing such costs.

48. **Mechanics Liens and Stop Notices.** If any claim of Mechanic's Lien is filed against the Property or a stop notice affecting the Loan is served on Lender, Borrower shall, within thirty (30) calendar days of such filing or service, either pay and fully discharge the Mechanic's Lien or stop notice, obtain a release of the Mechanic's Lien or stop notice, deliver to Lender a surety bond in sufficient form and amount, or provide Lender with other assurance satisfactory to Lender that the Mechanic's Lien or stop notice shall be paid or discharged.

If Borrower fails to comply with the foregoing, then Lender may, but shall be under no obligation to, discharge the same at Borrower's expense. Alternatively, Lender may require Borrower to immediately deposit with Lender the amount necessary to satisfy such Mechanic's Lien or claim and any costs, pending resolution thereof. Lender may use such deposit to satisfy any claim or Mechanic's Lien that is adversely determined against Borrower.

Borrower shall file for record a valid notice of cessation upon cessation of construction on the Project for a continuous period of thirty (30) days or more and shall file for record a valid notice of completion following completion of the Project. Borrower shall take all other reasonable steps to forestall the assertion of claims of lien against the Property. Borrower authorizes Lender, but without any obligation, to record any notices of completion or cessation of labor, or any other notice that Lender deems necessary or desirable to protect its interest in the Project and Property; provided, however, that Lender shall exercise this right only if and when Borrower fails to take action as required.

49. **Disabled Access.** The Project shall be developed and the Property shall be maintained to comply with all applicable federal, state, and local requirements for access for persons with disabilities.

50. **Reports.** Borrower shall provide the Lender with annual operating reports, including but not limited to third party audited financial statements, rent rolls, state inspection and any other documentation in such form and as may be required by the Lender.

51. **Operation of Project.** Borrower and each of Borrower's agents shall diligently operate and manage the Property after completion in substantial conformance with the covenants contained in the Regulatory Agreement, which are intended to run with the land and bind all successors-in-interest to the Property for the full term of that Regulatory Agreement.

52. **Non-Discrimination.** Borrower shall not discriminate or segregate in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of any part of the Property on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age (other than as provided in the Regulatory Agreement), marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions, or any other arbitrary basis, or against any other protected class. Borrower shall otherwise comply with all applicable local, state, and federal housing discrimination laws.

53. **Fees, Taxes, and Other Levies.** Borrower shall be responsible for the payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property and/or the Project, and shall pay such charges prior to delinquency. However, Borrower shall not be required to discharge any such charge as long as (a) the legality thereof is being contested in good faith and by appropriate proceedings, and (b) Borrower maintains reserves adequate to pay any contested liabilities.

54. **Damage to Property.** Subject to the rights of the Senior Lender, if any buildings or improvements erected by Borrower on the Property are damaged or destroyed, Borrower shall, at its own cost and expense, repair or restore such buildings and improvements consistent with the original Plans and Specifications for the Project. The repair or restoration work shall be commenced within thirty (30) calendar days, or up to one hundred eighty (180) calendar days with written approval of City, after the damage or loss occurs, and must be completed within three hundred sixty (360) calendar days thereafter. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds are insufficient for such purpose, Borrower shall make up the deficiency.

INDEMNITY AND INSURANCE

55. **Insurance Coverage.** Borrower shall have in full force and effect during the full term of the Loan and Regulatory Agreement, the insurance coverage specified in Exhibit G to the Agreement, which is hereby incorporated into this Agreement by this reference. In addition, Borrower shall ensure that the general contractor for the Project maintains the insurance coverage specified in Exhibit G for the duration of the Project construction. All required insurance shall be in effect prior to commencement of construction. The City's insurance policies shall not be contributing. Insurance shall, in all events, be of an amount sufficient to cover the full replacement value of the Project.

A. Borrower shall deliver to City a legible copy of each insurance policy (or duplicate original) and Borrower shall promptly deliver to City a copy of all renewal and other notices received by Borrower with respect to the policies and all receipts for paid premiums. At least five (5) days prior to the expiration date of any insurance policy, Borrower shall deliver to City evidence acceptable to City that the policy has been renewed. If Borrower has not delivered a legible copy of each renewal policy (or a duplicate original) prior to the expiration date of any insurance policy, Borrower shall deliver a legible copy of each renewal policy (or a duplicate original) in a form satisfactory to City within 120 days after the expiration date of the original policy.

B. Notwithstanding any provision in the Subordination Agreement, the insurance requirements in effect at Loan closing shall remain in effect throughout the duration of this Loan, unless City provides prior written consent to a modification of the insurance requirements.

C. Borrower is aware that California Civil Code § 2955.5(a) provides as follows: No lender shall require a borrower, as a condition of receiving or maintaining a loan secured by real property, to provide hazard insurance coverage against risks to the

improvements on that real property in an amount exceeding the replacement value of the improvements on the property.

56. **Evidence of Insurance Compliance.** Borrower or its insurance broker shall deliver the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage to Lender. Lender may designate an insurance certificate processor (“Processor”) to accept and process Borrower’s proof of insurance. Borrower shall deliver copies of the actual insurance policies, renewals, or replacements directly to Lender or Processor upon their request.

57. **Non-Liability of Officials, Employees and Agents.** No member, official, director, employee, or agent of Lender shall be personally liable to Borrower for any obligation created under the terms of these Loan Documents, unless such an obligation is made express and by written instrument.

58. **Indemnity.** Notwithstanding the insurance coverage required herein, Borrower, its successors, assigns, and heirs shall indemnify, defend, and hold Lender, its members, officials, directors, employees, and agents (“Indemnitees”) harmless from any losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorneys’ fees) which Lender may incur as a result of: (a) the making of this Loan to Borrower; (b) Borrower’s performance of or failure to perform any obligations as and when required by the Loan Documents; (c) a failure of any of Borrower’s representations or warranties under this Agreement to be true and complete in any material respect; (d) any act or omission by Borrower or any of Borrower’s contractors, subcontractors, architects, engineers, or suppliers with respect to the Project or the Property, except if the loss is caused by the sole negligence or willful misconduct of Lender; (e) failure of Borrower’s management agent, Borrower’s contractors, subcontractors, or property manager, to comply with the covenants, conditions, and restrictions contained in this Agreement or the Loan Documents or to comply with all other laws, rules, regulations, and restrictions related to the use of Lender’s funds, and/or (f) any claim related to the Property, Project, or Loan, except if the loss is caused by (i) the sole negligence or willful misconduct of Lender or (ii) the material breach by Lender of any Loan Document. Borrower shall pay immediately upon Lender’s demand any amounts owing under this indemnity. The duty of Borrower to indemnify includes the duty to defend Lender in any court action, administrative action, or other proceeding brought by any third party arising from the Project, the Loan Documents, or the Property. Borrower’s duty to indemnify Lender shall survive the term of this Loan and the reconveyance of the Deed of Trust.

ENVIRONMENTAL COMPLIANCE

59. **Definitions of Environmental Terms.** For the purposes of this Loan Agreement, the following terms shall have the following meanings:

A. **Environmental Damages** means all claims, judgments, damages (including without limitation, punitive damages), losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation and defense of any claim, whether or not such is ultimately defeated, and of any settlement or judgment, of

whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including without limitation reasonable attorneys' fees and disbursements and consultants' fees, any of which are actually incurred by Lender or Senior Lender at any time as a result of the existence of any Hazardous Materials upon, about, or beneath the Property or migrating to or from the Property, or the existence of a violation of Environmental Requirements pertaining to the Property regardless of whether the existence of such Hazardous Materials or the violation of Environmental Requirements arose prior to the present ownership or operation of the Property, and including, without limitation:

i. Damages for personal injury, or injury to Property or natural resources occurring upon or off of the Property, foreseeable or unforeseeable, including, without limitation, lost profits, consequential damages, the cost of demolition and rebuilding of any improvements on Property, interest and penalties including but not limited to claims brought by or on behalf of employees of Borrower, with respect to which Borrower waives, for the benefit of Lender only, any immunity to which it may be entitled under any industrial or worker's compensation laws;

ii. To the extent that the items of Environmental Damages described elsewhere in this subsection A have not yet been incurred as of the time of payment by Borrower of a claim by Lender under this subsection A, diminution in the value of the Property (to the extent such diminution results in the Lender being under-secured);

iii. Fees incurred for the services of attorneys, consultants, contractors, experts, laboratories and all other costs incurred in connection with the investigation, cleanup or remediation of such Hazardous Materials or violation of Environmental Requirements including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remedial, removal, abatement, containment, closure, restoration, or monitoring work required by any federal, state, or local governmental agency or political subdivision, or reasonably necessary to make full economic use of the Property or any other real property or otherwise expended in connection with such conditions, and including without limitation any attorneys' fees, costs, and expenses incurred in enforcing these Loan Documents or collecting any sums due hereunder; and

iv. Liability to any person or entity to indemnify such person or entity for costs expended in connection with the items referenced in subsection iii hereof.

B. **Environmental Requirements** means all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises and similar items, of all governmental agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political subdivisions thereof and all applicable judicial and administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, including, without limitation:

i. All requirements, including but not limited to those pertaining to reporting, licensing, permitting, investigation and remediation of emissions, discharges, releases or threatened releases of Hazardous Materials, chemical substances, pollutants, contaminants or

hazardous or toxic substances, materials or wastes whether solid, liquid or gaseous in nature, into the air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, pollutants, contaminants or hazardous or toxic substances, materials, or wastes, whether solid, liquid or gaseous in nature; and

ii. All requirements pertaining to the protection of the health and safety of employees or the public.

C. **Hazardous Materials** means any substance:

i. The presence of which requires investigation or remediation under any federal, state or local statute, regulation, rule, ordinance, order, action or policy; or

ii. Which is or becomes defined as a “hazardous waste” or “hazardous substance” or “pollutant” or “contaminant” under any federal, state or local statute, regulation, rule, or ordinance or amendments thereto including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)(42 U.S.C. Section 9601 et seq.) or the Resource Conservation and Recovery Act (CRCRA) (42 U.S.C. Section 6901 et seq.) or

iii. Which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, any State of the United States, or any political subdivision thereof; or

iv. The presence of which on the Property causes or threatens to cause a nuisance upon the Property or to adjacent properties or poses or threatens to pose a hazard to the Property or to the health or safety of persons on or about the Property; or

v. Which contains volatile organic compounds such as gasoline, diesel fuel, or other petroleum hydrocarbons; or

vi. Which contains polychlorinated biphenyls (PCBs) or asbestos or asbestos-containing materials or urea formaldehyde foam insulation; or

vii. Radon gas at concentrations exceeding State or Federal acceptable levels, as applicable at the time of review.

60. **Environmental Covenants.** Borrower shall at all times comply with the following requirements:

A. **No Use, Disposal or Storage.** Borrower shall not cause, permit, or suffer any Hazardous Material (as defined in Section 59) to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath the Property or any portion thereof by Borrower, its agents, employees, contractors, invitees, tenants, or any other person, except to the extent commonly used in the

day to day construction or operation of the Property and then only so long as in compliance with all Environmental Requirements (as defined in Section 59).

B. **Compliance with Environmental Requirements.** Borrower shall not cause, permit or suffer the existence or the commission by Borrower, its agents, employees, or contractors of a violation of any Environmental Requirements upon, about or beneath the Property or any portion thereof and Borrower shall use its best efforts to prevent any such violation of any Environmental Requirements by any invitees, tenants or any other person. Borrower shall notify Lender in writing of any release of Hazardous Materials at, on, under or within the Property in violation of any Environmental Requirements, or of the presence of Hazardous Materials at the Property in violation of any Environmental Requirements, promptly upon discovery of such release or presence.

C. **Environmental Liens.** Borrower shall not create or suffer to exist with respect to the Property, or permit any of its agents to create or suffer to exist any lien, security interest or other charge or encumbrance of any kind, including without limitation, any lien imposed pursuant to Section 107(f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. Section 9607(1)) or any similar state statute, and Borrower shall use its best efforts to prevent the creation of any such lien, security interest, charge or encumbrance by any of its tenants and shall not permit any of such tenants to suffer to exist any of such items.

D. **Mitigation.** Notwithstanding the obligation of Borrower to indemnify pursuant to Section 62, Borrower shall, at its sole cost and expense, promptly take all actions required by any federal, state or local governmental agency or political subdivision or reasonably necessary to mitigate Environmental Damages (as defined in Section 59) and to allow full economic use of the Property (using the use of the Property as a multi-family housing complex, subject to the terms of the Regulatory Agreement, as the standard for such full economic use), which requirements of necessity arise from the presence upon, about or beneath the Property, of a Hazardous Material or a violation of Environmental Requirements. Such actions, which, except when required by any federal, state or local government agency or political subdivision, Borrower shall be required to take only when reasonable, shall include, but not be limited to, the investigation of the environmental condition of the Property, the preparation of and feasibility studies, reports or remedial plans, and the performance of any cleanup, remediation, containment, operation, maintenance, monitoring or restoration work, whether on or off of the Property. Borrower shall take all actions necessary to restore the Property to the condition existing prior to the introduction of Hazardous Material(s) upon, about or beneath the Property, notwithstanding any lesser standard of remediation allowable under applicable law or governmental policies. Borrower shall proceed continuously and diligently with such investigatory and remedial actions, provided that in all cases such actions shall be in accordance with all applicable requirements of governmental entities. Any such actions shall be performed in a good, safe and workmanlike manner and shall minimize any impact on the business conducted at the Property. Borrower shall pay all costs in connection with such investigatory and remedial activities, including but not limited to all power and utility costs, and any and all taxes or fees that may be applicable to such activities. Borrower shall promptly provide to Lender copies of testing results and reports that are generated in connection with the above activities. Promptly upon completion of such investigation and remediation, Borrower shall permanently seal or cap all monitoring wells and test holes to industrial standards in

compliance with applicable federal, state and local laws and regulations, remove all associated equipment, and restore the Property to the maximum extent possible, which shall include, without limitation, the repair of any surface damage, including paving, caused by such investigation or remediation hereunder.

E. **Notice of Environmental Risks.** If Borrower shall become aware of or receive notice or other communication concerning any actual, alleged, suspected or threatened violation of Environmental Requirements, or liability of Borrower for Environmental Damages in connection with the Property or past or present activities of any person thereon, or that any information supplied to Lender is not or is no longer accurate in any material respect, including but not limited to notice or other communication concerning any actual or threatened investigation, inquiry, lawsuit, claim, citation, directive, summons, proceeding, complaint, notice, order, writ, or injunction, relating to same, and including without limitation any notice or other communication from any tenant, then Borrower shall deliver to Lender, within ten (10) calendar days of the receipt of such notice or communication by Borrower, a written description of said violation, liability, correcting information or actual or threatened event or condition, together with copies of any documents evidencing same. Receipt of such notice shall not be deemed to create any obligation on the part of Lender to defend or otherwise respond to any such notification.

F. **Notice of Test Results.** Borrower shall promptly provide to Lender the results of any tests and copies of all registration permits regarding any underground storage tanks located on the Property and Borrower shall comply with the same.

G. **Right to Enter and Inspect.** In the event Lender reasonably believes that there has been a release or threatened release of a Hazardous Material on the Property, or a breach of an Environmental Requirement or in the event of any default under this Loan Agreement or under the Note, Lender shall have the right in its sole and absolute discretion, but not the duty, to enter upon the Property at any reasonable time, at the expense of Borrower, to conduct an inspection of the Property including invasive tests and the activities conducted thereon to determine compliance with all Environmental Requirements and the existence of any Environmental damages as a result of the condition of the Property or any surrounding properties and activities thereon. Borrower hereby grants to Lender, and the agents, employees, consultants and contractors of Lender, the right to enter upon the Property and to perform such tests on the Property as are necessary to conduct such reviews and investigations in accordance with the preceding sentence. Lender shall use its best efforts to minimize interference with the business of Borrower and to restore the condition of the Property, but Lender shall not be liable for any interference caused thereby or failure to restore if Lender determines in its sole discretion that it is not economically practicable.

H. **Reimbursement of Lender.** In the event of any default under this Loan Agreement or any other Loan Document, Borrower shall promptly reimburse Lender for any environmental studies or tests which Lender deems necessary to ascertain the presence and/or level of any Hazardous Materials on the Property.

61. **Environmental Representations.** Borrower hereby represents and warrants as of the date hereof as follows:

A. **Handling of Hazardous Materials.** Neither Borrower nor, to the best knowledge of Borrower, any previous owner, tenant, occupant or user of the Property, nor any other person, has engaged in or permitted any operations or activities upon, or any use or occupancy of the Property, or any portion thereof, for the purpose of or in any way involving the handling, manufacture, treatment, storage, use, generation, release, discharge, refining, dumping or disposal of any Hazardous Materials (whether legal or illegal, accidental or intentional) on, under, in or about the Property, except to the extent commonly used in the day to day operation of the Property and then only as long as in compliance with all Environmental Requirements, or transported any Hazardous Materials to, from or across the Property, nor to the best knowledge of Borrower are any Hazardous Materials presently constructed, deposited, stored, or otherwise located on, under, in or about the Property, nor to the best knowledge of Borrower have any Hazardous Materials migrated from the Property upon or beneath other properties, nor to the best knowledge of Borrower have any Hazardous Materials migrated from other properties upon, about or beneath the Property except as set forth in the Phase I Environmental Report (or any other environmental report) provided to the Lender.

B. **Compliance with Environmental Requirements.** Existing uses and activities on the Property, including but not limited to the use, maintenance and operation of the Property, and all activities and conduct of business related thereto, comply with all Environmental Requirements, and no activity on the Property constitutes a nuisance or a tortious condition with respect to any third party.

C. **Permits and Authorizations.** Borrower has obtained any or all permits, licenses and other authorizations which may be required under all Environmental Requirements, including laws relating to emissions, discharges, releases or threatened releases of Hazardous Material into the environment (including ambient air, surface water, ground water or land) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Material. Borrower is in compliance with all terms and conditions of any required permits, licenses and authorizations, and is also in compliance with all other Environmental Requirements.

D. **Notice of Claims or Liability.** Neither Borrower nor, to the best knowledge of Borrower, any prior owner, occupant or user of the Property has received notice or other communication concerning any alleged violation of Environmental Requirements, or notice or other communication concerning alleged liability for Environmental Damages in connection with the Property, and, to the best knowledge of Borrower after due inquiry, there exists no writ, injunction, decree, order or judgment outstanding, nor any lawsuit, claim, proceeding, citation, directive, summons or investigation, pending or threatened, relating to the ownership, use, maintenance or operation of the Property by any person or entity, or from any alleged violation of Environmental Requirements, or from any suspected presence of Hazardous Material thereon, nor, to the best knowledge of Borrower after due inquiry, does there exist any basis for such lawsuit, claim, proceeding, citation, directive, summons or investigation being instituted or filed.

E. **PCBs and Other Materials Disclosed in Questionnaire.** To the best knowledge of Borrower, there is not constructed, placed, deposited, stored, disposed of nor located on the Property any polychlorinated biphenyls (PCBs) nor transformers, capacitors,

ballasts, or other equipment which contains dielectric fluid containing PCBs, or any asbestos or asbestos-containing materials or any insulating material containing urea formaldehyde or any radon gas. To the best knowledge of Borrower, except as has been disclosed to Lender in writing, no underground improvements, including but not limited to treatment or storage tanks, or water, gas or oil wells are or have been located on the Property.

F. The above representations and warranties contained in this Section shall survive the termination and release of this Loan Agreement and the discharge of Borrower's other obligations hereunder.

62. **Environmental Indemnity.** Borrower agrees to indemnify, reimburse, defend, exonerate, pay and hold harmless (a) Lender, its affiliates and their respective successors and assigns who acquire all or any portion of the loan secured by this Loan Agreement or the Property in any manner, including but not limited to, purchase at a foreclosure sale, acceptance of a deed in lieu thereof or otherwise through the exercise of the rights and remedies of Lender under this Loan Agreement and (b) the directors, officers, shareholders, employees, successors, assigns, agents, contractors, subcontractors, experts, licensees, affiliates, lessees, mortgagees, trustees, and invitees of Lender and such other persons or entities, from and against any and all Environmental Damages arising from the presence of Hazardous Materials upon, about or beneath the Property or migrating to or from the Property prior to or during Borrower's use or ownership of the Property, or arising in any manner whatsoever out of the violation of any Environmental Requirements pertaining to the Property and the activities thereon, or the breach of any warranty or covenant or the inaccuracy of any representation of Borrower contained in this Loan Agreement unless and to the extent such Environmental Damages exist solely as a result of the gross negligence or willful misconduct of the otherwise indemnified person. This obligation shall include, but not be limited to, the burden and expense of defending all claims, suits and administrative proceedings (with counsel chosen by Borrower and reasonably approved by the indemnified parties), even if such claims, suits or proceedings are groundless, false or fraudulent, and conducting all negotiations of any description, and paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due against such indemnified persons.

63. **Environmental Remedies Cumulative.** Notwithstanding anything to the contrary in this Loan Agreement, the rights of Lender and the obligations of Borrower created under this Agreement shall be in addition to those other rights and obligations, respectively, created or imposed by statutory, common, or case law.

DEFAULT AND REMEDIES

64. **Events of Default.** The occurrence of any of the following events shall be an "Event of Default" under this Loan:

A. **Monetary.** (a) Borrower's failure to pay when due any sums payable under the Note; (b) Borrower's use of Loan funds for uses inconsistent with the terms and restrictions in the Loan Documents; (c) Borrower's failure to make any other payment or assessment due under the Loan Documents;

B. **Construction.** (a) Borrower's or Borrower's agent's failure to commence or complete Project construction, without proper justification under Section 71 of this Agreement, according to the construction schedule specified in this Agreement; (b) the cessation of construction prior to Project completion for a period of more than thirty (30) continuous calendar days; (c) any material adverse change in the condition of Borrower or the Project or any other event that gives Lender reasonable cause to believe that the Project cannot be constructed by the scheduled completion date according to the terms of the Loan Documents; (d) the filing of any claim of lien against the Property or Project or service on Lender of any stop notice relating to the Loan, and the continuance of the claim of lien or stop notice for thirty (30) calendar days after such filing or service without payment, discharge, or satisfaction as provided for in this Agreement.

C. **Operation.** (a) Rental of Regulated Units to households whose incomes do not qualify them for occupancy in the Project, or any failure of Borrower or Borrower's agents to take adequate steps to certify incomes; (b) overcharging in rental of Regulated Units by Borrower or Borrower's agents; (c) Borrower's or Borrower's agent's failure to materially comply with the management requirements as set forth in the Loan Documents, including but not limited to the requirements in Section 51 above; (d) discrimination by Borrower or Borrower's agents on the basis of characteristics prohibited by this Agreement or applicable law; (e) the imposition of any encumbrances or liens on the Property without the Lender's prior written approval that are prohibited under this Agreement and/or that have the effect of reducing the priority of or invalidating the Deed of Trust; (f) the transfer of the Property, the Project, or this Agreement in violation of the Loan Documents; (g) conversion of any Regulated Units to condominium or cooperative ownership without the Lender's prior written consent, which consent may be withheld for any reason; (h) any material adverse change in the condition of Borrower or the Project or permanent financing or funding for the Project that gives Lender reasonable cause to believe that the Project cannot be operated in material accordance with the terms of the Loan Documents; (i) Borrower's or Borrower's agent's failure to comply with any federal, state, or local laws or Lender policies governing the operation and management of housing, including without limitation provisions of this Agreement and the Loan Documents; (j) Borrower's or Borrower's agent's failure to provide records to Lender upon Lender's request.

D. **General Performance of Loan Obligations.** Any breach by Borrower or Borrower's agents of any obligations of Borrower imposed in the Loan Documents.

E. **Representations and Warranties.** A determination by Lender that any of Borrower's representations or warranties made in the Loan Documents, any statements made to Lender by Borrower, or any certificates, documents, or schedules supplied to Lender by Borrower were untrue in any material respect when made, or that Borrower concealed from Lender or failed to disclose to Lender a material fact.

F. **Damage to Property.** Material damage or destruction to the Property, if Borrower does not take steps to reconstruct the Property as required herein.

G. **Bankruptcy, Dissolution, and Insolvency.** Borrower's (a) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such

involuntary filing brought by another party before the earlier of final relief or ninety (90) calendar days after the filing; (b) making a general assignment for the benefit of creditors; (c) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or ninety (90) calendar days after the filing; (d) insolvency, and/or (e) failure, inability, or admission in writing of its inability to pay its debts as they become due.

65. **Notice of Borrower's or Owner's Default and Opportunity to Cure.** Lender shall give written notice and opportunity to cure to Borrower, with a copy to Borrower's Investor Limited Partner and Senior Lender, of any Event of Default by specifying: (a) the nature of the event or deficiency giving rise to the Event of Default, (b) the action required to cure the deficiency, if an action to cure is possible, and (c) a date, which shall not be less than thirty (30) calendar days from the mailing of the notice, by which such action to cure must be taken, if an action to cure is possible. If the default is such that it is not capable of being cured within thirty (30) calendar days and Borrower (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by City; provided, however, that any cure must be completed within one hundred eighty (180) calendar days from the mailing of the notice.

For purposes of the foregoing, Lender hereby acknowledges that any cure of any Event of Default made or tendered by the Senior Lender or Investor Limited Partner of Borrower shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

66. **Lender's Remedies.** Subject to the terms of the Subordination Agreement and the Regulatory Agreement, upon any Event of Default by the Borrower prior to disbursement of all Loan proceeds, which is not cured pursuant to Section 65 above, Lender's obligation to disburse the remaining loan proceeds shall cease. As provided for in Section 65 above, Lender shall give written notice to Borrower of any Event of Default. If an action to cure is specified in the notice, Borrower's failure to cure the deficiency within the time specified in the notice, or failure to commence the cure within thirty (30) calendar days, if cure would take longer than thirty (30) calendar days, Lender may, in addition to other rights and remedies permitted by the Loan Documents or applicable law and subject to the rights of any Senior Lenders, proceed with any or all of the following remedies in any order or combination Lender may choose in its sole discretion:

A. Terminate this Agreement, in which case Lender may declare the entire principal amount outstanding and all accrued interest under the Note, as well as any other funds advanced to Borrower by Lender under the Loan Documents including administrative costs, immediately due and payable;

B. Bring an action in equitable relief (a) seeking the specific performance by Borrower of the terms and conditions of the Loan Documents, and/or (b) enjoining, abating, or preventing any violation of said terms and conditions, and/or (c) seeking declaratory relief;

C. Accelerate the Loan, and demand immediate full payment of the principal amount outstanding and all accrued interest under the Note, as well as any other funds advanced to Borrower by Lender under the Loan Documents;

D. Enter the Property and take any actions necessary in its judgment to complete project construction as permitted including without limitation (a) making changes in the plans and specifications or other work or materials for the Project, (b) entering into, modifying, or terminating any contractual arrangements (subject to Lender's right at any time to discontinue work without liability), or (c) taking any remedial actions with respect to Hazardous Materials that Lender deems necessary to comply with any laws applicable to hazardous materials or to render the Property suitable for occupancy;

E. Seek appointment from a court of a receiver with the authority to complete construction as needed to preserve Lender's interest in seeing the Project developed in a timely manner, including the authority to take any remedial actions with respect to Hazardous Materials that Lender or the receiver deems necessary to comply with any laws applicable to Hazardous Materials or to render the Property suitable for occupancy;

F. Order immediate stoppage of construction and demand that any condition leading to the Event of Default be corrected before construction may continue;

G. Disburse from Loan proceeds any amount necessary to cure any monetary default;

H. Enter upon, take possession of, and manage the Property, either in person, by agent, or by a receiver appointed by a court, and collect rents and other amounts specified in the assignment of rents in the Deed of Trust and apply them to operate the Property or to pay off the Loan or any advances made under the Loan Documents, as provided for in the Deed of Trust;

I. Initiate and pursue any foreclosure action allowed under applicable law and the power of sale provision in the Deed of Trust;

J. With respect to defaults under Hazardous Materials provisions herein, pursue the rights, and remedies permitted under California Civil Code Section 2929.5, and Code of Civil Procedures Sections 726.5; and 736;

K. Pursue any other remedy allowed at law or in equity.

GENERAL PROVISIONS

67. **Borrower's Warranties.** Borrower represents and warrants: (a) that Borrower has access to professional advice and support to the extent necessary to enable Borrower to comply with the terms of the Loan Documents, and otherwise carry out the Project; (b) that Borrower is duly organized, validly existing and in good standing under the laws of the State of California and is qualified to do business in California; (c) that Borrower has the full power and authority to undertake the Project and execute the Loan Documents; and (d) that the persons

executing and delivering the Loan Documents are authorized to execute and deliver such documents on behalf of Borrower.

68. **Project Monitoring and Evaluation.** Except as otherwise provided for in this Agreement, Borrower shall submit available records to Lender within ten (10) business days of Lender's request which reasonably document Borrower's performance under each material requirement of the Loan Documents. Borrower shall comply promptly with all requirements of this Agreement relating to notices, extension, and other events required to be reported or that are requested by Lender. Borrower shall provide, upon Lender's reasonable request, any information or documentation available to Borrower pertaining to the Project and shall cooperate with Lender's representatives on matters related to Project monitoring and evaluation. The City shall have the right to review and approve the management entity chosen by Borrower for the Property and the right to require a change in the management entity for reasonable cause at any time during the term of this Agreement, provided, however, the City shall provide not less than sixty (60) days' notice and right to cure any defects in the management of the Property prior to requiring a change to the Property Manager, unless there is an immediate health and safety concern or evidence of fraudulent activity by the Property Manager. Lender hereby approves USRG (California) Inc. as the initial Property Manager.

69. **Political Activity.** None of the funds, materials, property, or services contributed by Lender to Borrower under this Agreement shall be used for any partisan political activity or the election or defeat of any candidate for public office.

70. **Limited Partnership Agreement.** The Amended and Restated Agreement of Limited Partnership is hereby approved.

71. **Unavoidable Delay in Performance.** The time for performance of provisions of this Agreement by either party shall be extended for a period equal to the period of any delay directly affecting the Project or this Agreement which is caused by: war; insurrection; terrorism; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of a public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; suits filed by third parties concerning or arising out of this Agreement; or unseasonable weather conditions. An extension of time for any of the above-specified causes shall be deemed granted only if written notice by the party claiming such extension is sent to the other party within thirty (30) calendar days from the commencement of the cause. Times of performance under this Agreement may also be extended for any cause for any period of time by the mutual written agreement of Lender and Borrower.

72. **Governing Law and Venue.** The Loan Documents shall be interpreted under and governed by the laws of the State of California, except for those provisions preempted by federal law. However, the laws of the State of California shall not be applied to the extent that they would require or allow the court to use the laws of another state or jurisdiction. Borrower agrees that all actions or proceedings arising in connection with the Loan Documents shall be tried and litigated only in the state and federal courts located in the State of California, except that Lender, in its sole discretion, may elect that all such actions or proceedings be tried and litigated in the County of Sacramento or the United States District Court for the Eastern District of California.

73. **Statutory References.** All references in the Loan Documents to particular statutes, regulations, ordinances, or resolutions of the United States, the State of California, and the City of Elk Grove, shall be deemed to include the same statute, regulation, ordinance, or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject.

74. **Attorneys' Fees and Costs.** In the event any legal or administrative action is brought to interpret or enforce the terms of the Loan Documents, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

75. **Time.** Time is of the essence in these Loan Documents.

76. **Consents and Approvals.** Any consent or approval required under this Agreement shall not be unreasonably withheld.

77. **Lender's Signatory Authority.** Any provision of the Loan Documents, including this Loan Agreement, requiring the signature, consent, authorizing waiver, and/or approval of the Lender shall mean the signature of the City Manager or his/her designee.

78. **Notices, Demands and Communications.** Formal notices, demands and communications between Borrower and Lender shall be given by registered or certified mail, postage prepaid, return receipt requested, or shall be delivered personally, to the principal offices of Borrower and Lender as set forth below, or if any such office is relocated, to the new address specified by the relocated party. A copy of any written notice sent to Borrower shall be sent to Wells Fargo Affordable Housing Community Development Corporation as follows:

LENDER:	ATTN: City Manager City of Elk Grove 8401 Laguna Palms Way Elk Grove, CA 95758
WITH COPY TO:	ATTN: City Attorney City of Elk Grove 8401 Laguna Palms Way Elk Grove, CA 95758
BORROWER/OWNER:	ATTN: Caleb Roope Elk Grove Pacific Associates II, a California Limited Partnership 430 East State Street, Suite 100 Eagle, ID 83616
WITH COPIES TO:	ATTN: Mike Kelley Kelley Ventures LLC 555 Capitol Mall, Suite 410 Sacramento, CA 95816

ATTN: Mark Wiese
PacH Affordable Holdings, LLC
2115 J Street, Suite 201
Sacramento, CA 95816

ATTN: David Cohen
Katten Muchin Rosenman LLC
2029 Century Park East, Suite 2600
Los Angeles, CA 90067

ATTN: Director of Tax Credit Asset
Management
Wells Fargo Affordable Housing Community
Development Corporation
301 South College Street, MAC D1053-170
Charlotte, NC 28288

ATTN: Craig A. de Ridder, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037

SENIOR LENDER:

If notice occurs during the construction term
send to:

ATTN: Mary Hodge
Wells Fargo Bank, National Association
Community Lending and Investment
1300 S.W. Fifth Avenue, 12th Floor
MAC P6101-121
Portland, Oregon 97201
Loan No. 1017238

If notice occurs past the construction term send
to:

Rabobank, N.A.
618 W Main Street
Visalia, CA 93291

If the recipient refuses or rejects delivery, notice is deemed complete as of the date on which the Notice is so refused or rejected, as conclusively established by the records of the United States Postal Service or such express courier service.

79. **Binding upon Successors.** All provisions of these Loan Documents shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of each of the parties; provided, however, that this section does

not waive the prohibition on assignment of this Agreement by Borrower without Lender's consent. The terms "Borrower" and "Owner" as used in these Loan Documents shall include all permitted assigns, successors-in-interest, and transferees of Borrower and Owner.

80. **Survival of Regulatory Agreement.** The Regulatory Agreement shall remain in full force and effect against the Project, even in the event of foreclosure by the Senior Lender, except as provided in the Subordination Agreement.

81. **Relationship of Parties.** The relationship of Borrower with Lender for this Loan is and shall remain solely that of a debtor and a creditor, and shall not be construed as a joint venture, equity venture, partnership, or any other relationship. Lender neither undertakes nor assumes any responsibility or duty to Borrower (except as provided for herein) or any third party with respect to the Project, the Property, or the Loan. Except as Lender may specify in writing, Borrower shall have no authority to act as an agent of Lender or to bind Lender to any obligation.

82. **Waiver.** Any waiver by Lender of an obligation in these Loan Documents must be in writing. No waiver shall be implied from any delay or failure by Lender to take action on any breach or default of Borrower or to pursue any remedy allowed under the Loan Documents or applicable law. Any extension of time granted to Borrower to perform any obligation under the Loan Documents shall not operate as a waiver or release from any of its obligations under Loan Documents. Consent by Lender to any act or omission by Borrower shall not be construed to be a consent to any other act or omission or to waive the requirement for Lender's written consent to future waivers.

83. **Integration.** The Loan Documents, including exhibits, contain the entire agreement of the parties and supersede any prior negotiations.

84. **Other Agreements.** Borrower represents that Borrower has not entered into any agreements that are inconsistent with the terms of the Loan Documents. Borrower shall not enter into any agreements that are inconsistent with terms of the Loan Documents without an express waiver by Lender in writing.

85. **Amendments and Modification.** Any amendments or modifications to the Loan Documents must be in writing, and shall be effective only if executed by Borrower and Lender.

86. **Severability.** Every provision of this Agreement is intended to be severable. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired.

87. **Counterparts.** This Agreement and all other agreements executed pursuant to this Agreement may be executed in counterpart originals, each of which shall be deemed an original, but all of which, together shall constitute one and the same instrument.

88. **Agreement and Acknowledgement of Contract.** Lender and Borrower acknowledge and agree that this Loan Agreement has been negotiated at arm's length, that each party has been represented by independent counsel and/or has had an opportunity to consult with

and be represented by independent counsel, that this Loan Agreement is deemed to be drafted by both parties, that no one party shall be construed as the drafter of this Loan Agreement, and that any rule of construction that ambiguities are to be construed against the drafter shall not apply in the interpretation or construction of this Loan Agreement.

89. **Authority.** The person(s) signing this Agreement hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of their respective party and to legally bind such party to the performance of its obligations hereunder.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereby have executed this Loan Agreement as of the date first above written.

CITY:

CITY OF ELK GROVE,
a California municipal corporation

By: _____

Name: Laura S. Gill

Its: City Manager

Approved as to form:

By: _____

Name: Jonathan P. Hobbs

Its: City Attorney

Attest:

By: _____

Name: Jason Lindgren

Its: City Clerk

ALL SIGNATURES MUST BE NOTARIZED

BORROWER:

ELK GROVE PACIFIC ASSOCIATES II,
a California limited partnership

By: PacH Affordable Holdings, LLC,
a California limited liability company
Its: Managing General Partner

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation
its Sole Member and Manager

By: _____
Mark A. Wiese, President

By: TPC Holdings IV, LLC,
an Idaho limited liability company doing business in California as TPC Idaho Holdings
IV, LLC
Its: Co-Administrative General Partner

By: _____
Name: Caleb Roope
Its: Manager

By: Kelley Ventures, LLC,
a California limited liability company
Its: Co-Administrative General Partner

By: _____
Name: Mike Kelley
Its: Manager

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODES 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODES 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODES 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

EXHIBIT A

Legal Description

REAL PROPERTY IN THE CITY OF ELK GROVE, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1 AS SHOWN ON THE PARCEL MAP ENTITLED "PARCEL MAP NO. 11-023 JONE'S PARCEL MAP" FILED FOR RECORD ON DECEMBER 20, 2011 AT THE OFFICE OF THE SACRAMENTO COUNTY RECORDER IN BOOK 217 OF PARCEL MAPS, PAGE 17.

APN: 115-0162-033

EXHIBIT B

Deed of Trust

[See attached document]

NO FEE DOCUMENT

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:

City of Elk Grove
c/o City Clerk
8401 Laguna Palms Way
Elk Grove, California 95758

**DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

(Securing affordable housing loan of \$300,000 to Elk Grove Pacific Associates II, LP)

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, AND SECURITY AGREEMENT (“Deed of Trust”) is made this 24th day of July, 2017, by ELK GROVE PACIFIC ASSOCIATES II, a California Limited Partnership (“Trustor”), to FIRST AMERICAN TITLE COMPANY as trustee (“Trustee”), for the benefit of the CITY OF ELK GROVE, a municipal corporation (“Beneficiary” or “City”). Trustor is sometimes referred to herein as “Borrower.” Trustor is granting this Deed of Trust on Trustor’s property located at 8627 Bow Street – APN 115-0162-033 (the “Property”) to provide collateral for, among other things, credit being extended by Beneficiary to Trustor in connection with the development of a fifty (50) unit housing project (the “Project”), to be constructed on the Property and governed by a Regulatory Agreement (herein so-called) executed by Beneficiary and Trustor. Forty-nine (49) of the fifty (50) units at the Project are rent-restricted (the “Regulated Units” as defined in the Regulatory Agreement). Of the Regulated Units, seven (7) shall be restricted at rents affordable to extremely low-income households, thirty-nine (39) shall be restricted at rents affordable to very low-income households, and three (3) shall be restricted at rents affordable to low-income households, in accordance with the Regulatory Agreement of even date herewith between Borrower and Lender. One (1) of the fifty (50) units shall not be rent-restricted and shall be reserved for an employee of the Property Manager, as further defined in the Regulatory Agreement. This Deed of Trust is being executed in order to secure Beneficiary’s interest as a governmental agency in ensuring both that public funds loaned for the development at the Project are repaid, and that housing projects assisted by public funds are developed, maintained, and operated in a manner that is consistent with the public interest.

GRANT IN TRUST

1. **Grant.** Trustor, in consideration of the indebtedness referred to below, hereby irrevocably grants and conveys to Trustee, **IN TRUST, WITH POWER OF SALE**, for the benefit and security of Beneficiary, all of Trustor’s interest in the Property, more particularly described in the attached Exhibit A, and incorporated herein by this reference,

TOGETHER WITH all interest, estates, or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property; all buildings, structures,

fixtures, improvements, signs, and landscaping now or hereafter erected or located on the Property, including all equipment and machinery used for supplying or distributing heating, cooling, electricity, gas, water, air, and light, all kitchen and laundry appliances such as washers, dryers, refrigerators, garbage disposals, ovens, ranges, dishwashers, all plumbing and bathroom fixtures, all security and access control equipment, fire prevention and extinguishment equipment, elevators, floor coverings, window coverings, paneling, cabinets, (provided, however, that Trustor shall have the right to remove, if necessary, such fixtures, furnishings, and equipment for the purpose of replacement with similar items of the same quality performing the same functions, which replacements shall themselves become part of this grant); all building material and equipment either now or hereafter delivered to the Property and intended to be installed therein or any such material and equipment purchased with Loan proceeds whether or not located on the Property; all reserves, accounts, deferred payments, and refunds relating to development on the Property; all rents and income generated by the property or improvements thereon; all leases, subleases and rental agreements covering the Property or any portion thereof now existing or hereafter entered into, and all interests of Trustor in security deposits, advance rentals, accounts, or payments of similar nature with respect to such leases, subleases, or rental agreements; all easements and rights-of-way appurtenant to the Property, including parking and recreational easements, and all interests of Trustor in any land lying within the right-of-way of any street, sidewalks, and areas of land adjacent to or used in connection with the Property; all development rights and credits, air rights, water rights, and oil, gas, or mineral rights with respect to the Property; all claims or demands with respect to insurance proceeds, and all awards made for a taking by eminent domain; all interests and rights in any private or government grants, subsidies, loans, or other financing with respect to development on the Property; all interests in personal property used in and about the Property (except furniture and other personal property of occupants of dwelling units on the Property); all intangible property and rights relating to the Property or operations on the Property, including trade names, goodwill, trademarks, and service marks; all government permits, approvals, and map rights related to construction on the Property; all architectural, structural, and mechanical plans, specifications, designs, studies, and data with respect to construction of improvements on the Property; all environmental tests, studies and reports with respect to the Property; all current and future claims and rights of action of Trustor against prior owners and operators of the Property, neighboring property owners and operators, tenants and former tenants, consultants, advisors, and other third parties with respect to environmental or Hazardous Materials contamination and cleanup of the Property under any federal, state, or local ordinances, statutes, regulations, or administrative decisions or common law.

All of the foregoing, together with the Property, is herein referred to as the “Security.”

OBLIGATIONS SECURED

2. Trustor makes this grant for the purpose of securing the following obligations:

A. Repayment of the indebtedness of Borrower to Beneficiary in the principal sum of THREE HUNDRED THOUSAND DOLLARS (\$300,000) with interest thereon (the “Loan”) evidenced by a promissory note executed by Borrower (the “Note”), on file at the offices of Beneficiary, which is hereby incorporated into this Deed of Trust by this reference, or

as much as has been disbursed to Trustor therewith, along with any extensions, amendments, modifications, or renewals to the Note; and

B. Payment of any sums advanced by Beneficiary to protect the security and priority of this Deed of Trust; and

C. Payment of any sums advanced by Beneficiary following a breach of Trustor's obligation to advance such sums and the expiration of any applicable cure period, with interest thereon as provided herein; and

D. Performance of every obligation, condition, covenant, or agreement of Trustor contained in the Loan Documents, including, without limitation, the Deed of Trust, the Regulatory Agreement, the Loan Agreement executed between Trustor and Beneficiary for the Loan (the "Loan Agreement" on file at the offices of Beneficiary, which is hereby incorporated into this Deed of Trust by this reference), together with performance of every obligation, condition, covenant, or agreement of Borrower contained in the Note and the Loan Agreement, including all modifications, extensions, and renewals of these obligations; and

E. Performance of any other obligation or repayment of any other indebtedness of Trustor or Borrower to Beneficiary, where such evidence of obligation or indebtedness specifically recites that it is secured by this Deed of Trust; and the Security, whether or not Beneficiary is a party to such agreements.

SUBDIVISION OF PROPERTY; RECIPROCAL EASEMENT AGREEMENT

3. **Subdivision of Property.** Beneficiary acknowledges that Trustor intends to subdivide the Property (the "Subdivision") into two legal parcels, which shall be comprised of one parcel containing the Project (the "Project Parcel") and one parcel (the "Phase 2 Parcel"). In connection therewith, Trustor shall deliver to Beneficiary each of the following, which shall be in form and substance acceptable to Beneficiary in its reasonable discretion: (1) a proposed parcel map or other instrument evidencing the Subdivision and creation of the Project Parcel and Phase 2 Parcel, (2) a proposed Reciprocal Maintenance and Use Agreement or other instrument granting Trustor and its invitees access to and over and use of such portions of the Phase 2 Parcel and Phase 2 Project, and including such other terms, as may be reasonably required by Beneficiary (the "Reciprocal Easement Agreement"), and (3) a pro forma endorsement to Beneficiary's title policy ensuring that the Deed of Trust shall remain a valid lien upon the Project Parcel, subject only to liens and encumbrances approved by Beneficiary, along with any other pro forma endorsements Beneficiary may require.

4. **Conveyances and Reconveyances.** Beneficiary acknowledges that after the Subdivision and creation of the Project Parcel and Phase 2 Parcel, Trustor intends to convey the Phase 2 Parcel to Elk Grove Pacific Associates III, a California Limited Partnership (the "Phase 2 Owner"). Prior to the conveyance of the Phase 2 Parcel to the Phase 2 Owner, Trustor shall have delivered to Beneficiary each of the following, which shall be in form and substance acceptable to Beneficiary in its reasonable discretion: (i) proposed instruments evidencing the proposed conveyance of the Phase 2 Parcel to the Phase 2 Owner, and, (ii) if required by Beneficiary, proposed execution-ready copies of partial release and reconveyance instruments

releasing the Phase 2 Parcel from the liens and encumbrances of the Deed of Trust and Beneficiary's Regulatory Agreement recorded against the Project Parcel in connection with the Loan. Upon receipt and approval of the foregoing, Beneficiary shall release and reconvey, the Phase 2 Parcel from this Deed of Trust, Beneficiary shall execute a partial release and reconveyance instrument releasing the Phase 2 Parcel from the liens and encumbrances of this Deed of Trust and modify this Deed of Trust, provided that the terms of any such amendment(s) are satisfactory to the Lender. In no event shall this Loan and the Phase 2 Loan at any time be cross-defaulted or cross-collateralized. In connection therewith, if required by Beneficiary, Beneficiary shall receive the endorsement to its title policy as described hereunder.

ABSOLUTE ASSIGNMENT OF RENTS AND RIGHT TO POSSESSION

5. **Assignment.** Subject to the rights of the Senior Lender, Trustor hereby assigns to Beneficiary: (a) all of the rents, revenues, profits, and income from the Security, any deposits now or hereafter in Trustor's possession which have been collected with respect to the Security, and any reserve or capital funds now or hereafter held by Trustor with respect to construction or operation of the Security (collectively, the "Rents"); and (b) the right to enter, take possession of and manage the Security; provided however that Trustor shall have, before an Event of Default, the exclusive right to possess the Security and to collect Rents and use them in accordance with the Loan Documents. This assignment is intended to be an absolute and present transfer of Trustor's interest in existing and future Rents, effective as of the date of this Deed of Trust.

6. **Enforcement.** Subject to the rights of the Senior Lender, upon the happening of an Event of Default which has not been cured in the manner and time provided in the Loan Documents, including the Loan Agreement as applicable, Beneficiary may, in addition to other rights and remedies permitted by the Loan Documents, including the Loan Agreement, this Deed of Trust, or applicable law: (a) enter upon, take possession of, and manage the Security, either in person as a mortgagee-in-possession, by agent, or by a receiver appointed by a court, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Security; (b) collect all Rents, including those past due and unpaid, and apply the same to pay for the costs and expenses of operation of the Security, including attorneys' fees, and pay off any indebtedness secured by this Deed of Trust, all in such order as Beneficiary may determine; and/or (c) enter upon and take possession of the Security, complete construction of any improvements on the Security as provided for in the Plans and Specifications approved under the Loan Agreement or any modifications to the Plans and Specifications or the Project that Beneficiary, in its sole discretion, believes is appropriate. Beneficiary may make, cancel, enforce, and modify leases and rental agreements, obtain and evict tenants, set and modify rent terms, sue for rents due, enter into, modify, or terminate any contracts or agreements, or take any legal action, as it deems necessary with respect to the Rents or to development or operation of the Security in compliance with the Loan Documents.

7. **Appointment of a Receiver.** In any action to enforce this Deed of Trust, Beneficiary may apply, at its discretion, for the appointment of a receiver to take possession of the Security and take whatever measures are necessary to preserve and manage the Security for the benefit of Beneficiary and the public interest. Trustor hereby consents to the appointment of a receiver. The receiver shall have all of the authority over the Security that Beneficiary would have if Beneficiary took possession of the Security under this assignment as mortgagee-in-

possession, including the right to collect and apply Rents and the right to complete construction of improvements.

8. **No Waiver of Power of Sale.** The entering upon and taking possession of the Security and the collection of Rents shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or notice of default and, notwithstanding the continuance in possession of the Security or the collection and application of Rents, Beneficiary shall be entitled to exercise every right provided for in this Deed of Trust or by law upon occurrence of any Event of Default, including the right to exercise the power of sale.

COMMERCIAL CODE SECURITY AGREEMENT

9. **Grant.** This Deed of Trust is intended to be a security agreement and financing statement pursuant to the California Commercial Code for any of the items specified above as part of the Security which under applicable law may be subject to a security interest pursuant to the Commercial Code, and Trustor hereby grants Beneficiary a security interest in said items. Beneficiary may file a copy of this Deed of Trust in the real estate records or other appropriate index as a financing statement for any of the items specified as part of the Security. Trustor shall execute and deliver to Beneficiary, at Beneficiary's request, any financing statements, as well as extensions, renewals, and amendments thereof, and copies of this instrument in such form as Beneficiary may require to perfect a security interest with respect to said items. Trustor shall pay all costs of filing such financing statements and shall pay all reasonable costs of any record searches for financing statements and releases. Without the prior written consent of Beneficiary, Trustor shall not create or permit any other security interest in said items. This Deed of Trust constitutes a fixture filing under Sections 9313 and 9402(6) of the California Commercial Code. Trustor is the record owner in the Property.

10. **Remedies.** Upon Trustor's breach of any obligation or agreement in any of the Loan Documents, Beneficiary shall have the remedies of a secured party under the Commercial Code and at Beneficiary's option, may also invoke the remedies provided for elsewhere in this Deed of Trust with respect to said items. Beneficiary may proceed against the items of real property and personal property specified above, separately or together, and in any order whatsoever.

RIGHTS AND OBLIGATIONS OF TRUSTOR

11. **Performance of Secured Obligation.** Trustor shall perform each obligation secured by this Deed of Trust in a manner consistent with industry standards.

12. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest on the indebtedness evidenced by the Note. Upon assignment of the Note, the assignee shall assume all of Borrower's obligations under the Loan Documents, including without limitation the Loan Agreement, this Deed of Trust, and Regulatory Agreement.

13. **Maintenance of the Security.** Trustor shall, at the Trustor's own expense, maintain, and preserve the Security or cause the Security to be maintained and preserved in good

condition, in good repair, and in a decent, safe, sanitary, habitable, and tenantable condition. Trustor shall not cause or permit any violations of any laws, ordinances, regulations, covenants, conditions, restrictions, or equitable servitude as they pertain to improvements, alterations, maintenance or demolition of the Security. Trustor shall not commit or permit waste on or to the Security. Trustor shall not abandon the Security. Beneficiary shall have no responsibility over maintenance of the Security. In the event Trustor fails to maintain the Security in accordance with the standards in this Deed of Trust, the Loan Agreement, or the Regulatory Agreement, Beneficiary, after at least thirty (30) calendar days prior notice to Trustor, may, but shall be under no obligation to, make such repairs or replacements as are necessary and provide for payment thereof. Any amount so advanced by Beneficiary, together with interest thereon from the date of such advance at the same rate of indebtedness as specified in the Note (unless payment of such an interest rate would be contrary to applicable law), shall become an additional obligation of Trustor to Beneficiary and shall be secured by this Deed of Trust.

14. **Inspection of the Security.** Trustor shall permit Beneficiary to enter and inspect the Security for compliance with these obligations upon a reasonable advance notice of such visit by Beneficiary to Trustor or Trustor's management agent.

15. **Liens, Encumbrances, and Charges.** Trustor shall discharge any lien or encumbrance not approved by Trustor in writing that may attain priority over this Deed of Trust, as provided for in the Loan Agreement.

16. **Defense and Notice of Claims and Actions.** Trustor shall appear in, indemnify and defend, at its own expense, any action or proceeding purporting to affect the Security and/or the rights of Beneficiary. Trustor shall give Beneficiary and Trustee prompt notice in writing of the assertion of any claim, of the filing of any action or proceeding, and of any condemnation offer or action with respect to the Security.

17. **Suits to Protect the Security.** Beneficiary shall have power to institute and maintain such suits and proceedings as it may deem expedient: (a) to prevent any impairment of the Security or the rights of Beneficiary; (b) to preserve or protect its interest in the Security and in the Rents; and (c) to restrain the enforcement of or compliance with any governmental legislation, regulation, or order, if the enforcement of or compliance with such legislation, regulation, or order would impair the Security or be prejudicial to the interest of Beneficiary.

18. **Damage to Security.** Trustor shall give Beneficiary and Trustee prompt notice in writing of any damage to the Security. Subject to the rights of Senior Lender and to the extent of available insurance proceeds, if any building or improvements erected on the Property is damaged or destroyed, Trustor shall, at its own cost, repair or restore said buildings and improvements consistent with the original plans and specifications. Such work shall be commenced within thirty (30) calendar days or up to one hundred (180) days with the written approval of City after the damage or loss occurs and shall be completed no later than three hundred sixty (360) calendar days thereafter. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds are insufficient for such purpose.

19. **Title.** Trustor warrants that upon or contemporaneously with funding of the Loan and the sale of the Property to Trustor, Trustor lawfully has legal title to the Security without any limitation on the right to encumber.

20. **Granting of Easements.** Trustor may not grant easements, licenses, rights-of-way or other rights in the nature of easements with respect to the Security, without the prior written approval of Beneficiary, except those needed for installation and maintenance of roadways, landscape corridors and utilities including water, gas, electricity, sewer, cable television, telephone, or those required by law, which may be granted by Trustor without the approval of Beneficiary.

21. **Taxes and Levies.** Trustor shall pay prior to delinquency, all taxes, fees, assessments, charges, and levies imposed by any public authority or utility company which are, or may become, a lien affecting the Security. However, Trustor shall not be required to pay any tax, assessment, charge, or levy as long as: (a) the legality thereof shall be promptly and actively contested in good faith and by the appropriate proceedings; and (b) Trustor maintains reserves adequate to pay any contested liabilities. In the event that Trustor fails to pay any of the foregoing items, Beneficiary may, but shall be under no obligation to, pay the same, after Beneficiary has notified Trustor of such failure to pay and Trustor fails to fully pay such items within seven (7) business days after receipt of such notice. Any amount so advanced by Beneficiary, together with interest thereon from the date of such advance at the same rate of interest specified in the Note (unless payment of such an interest rate would be contrary to applicable law, in which case interest shall accrue at the highest rate then allowed by applicable law), shall become an additional obligation of Trustor to Beneficiary and shall be secured by this Deed of Trust.

22. **Insurance.** Trustor shall provide such insurance as required under the Loan Documents including the Loan Agreement. In the event Trustor fails to maintain the full insurance coverage required by this Deed of Trust, Beneficiary, after at least seven (7) business days' prior notice to Trustor, may, but shall be under no obligation to, take out the required policies of insurance and pay the premiums on such policies. Any amount so advanced by Beneficiary, together with interest thereon from the date of such advance at the same rate of interest specified in the Note (unless payment of such an interest rate would be contrary to applicable law, in which case interest shall accrue at the highest rate then allowed by applicable law), shall become an additional obligation of Trustor to Beneficiary and shall be secured by this Deed of Trust.

23. **Definitions of Environmental Terms.** For the purposes of this Deed of Trust, the following terms shall have the following meanings:

A. **Environmental Damages** means all claims, judgments, damages (including without limitation, punitive damages), losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation and defense of any claim, whether or not such is ultimately defeated, and of any settlement or judgment, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including without limitation reasonable attorneys' fees and disbursements and consultants' fees, any of which are actually incurred by City or Trustee at any time as a result of the existence of

any Hazardous Material upon, about, or beneath the Property or migrating or threatening to migrate to or from the Property, or the existence of a violation of Environmental Requirements pertaining to the Property regardless of whether the existence of such Hazardous Materials or the violation of Environmental Requirements arose prior to the present ownership or operation of the Property, and including, without limitation:

i. Damages for personal injury, or injury to Property or natural resources occurring upon or off of the Property, foreseeable or unforeseeable, including, without limitation, lost profits, consequential damages, the cost of demolition and rebuilding of any improvements on Property, interest and penalties including but not limited to claims brought by or on behalf of employees of Trustor, with respect to which Trustor waives, for the benefit of City only, any immunity to which it may be entitled under any industrial or worker's compensation laws;

ii. To the extent that the items of Environmental Damages described elsewhere in this section have not yet been incurred as of the time of payment by Trustor of a claim by City under this section, diminution in the value of the Property (to the extent such diminution results in the City being under-secured);

iii. Fees incurred for the services of attorneys, consultants, contractors, experts, laboratories and all other costs incurred in connection with the investigation, cleanup or remediation of such Hazardous Materials or violation of Environmental Requirements including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remedial, removal, abatement, containment, closure, restoration or monitoring work required by any federal, state or local governmental agency or political subdivision, or reasonably necessary to make full economic use of the Property or any other real property or otherwise expended in connection with such conditions, and including without limitation any attorneys' fees, costs and expenses incurred in enforcing these Loan Documents or collecting any sums due hereunder; and

iv. Liability to any person or entity to indemnify such person or entity for costs expended in connection with the items referenced in subsection iii hereof.

B. **Environmental Requirements** means all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises and similar items, of all governmental agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political subdivisions thereof and all applicable judicial and administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, including, without limitation:

i. All requirements, including but not limited to those pertaining to reporting, licensing, permitting, investigation and remediation of emissions, discharges, releases or threatened releases of Hazardous Materials, chemical substances, pollutants, contaminants or hazardous or toxic substances, materials or wastes whether solid, liquid or gaseous in nature, into the air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials,

pollutants, contaminants or hazardous or toxic substances, materials, or wastes, whether solid, liquid or gaseous in nature; and

ii. All requirements pertaining to the protection of the health and safety of employees or the public.

C. **Hazardous Materials** means any substance:

i. The presence of which requires investigation or remediation under any federal, state or local statute, regulation, rule, ordinance, order, action or policy; or

ii. Which is or becomes defined as a “hazardous waste” or “hazardous substance” or “pollutant” or “contaminant” under any federal, state or local statute, regulation, rule, or ordinance or amendments thereto including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. Section 9601 et seq. or the Resource Conservation and Recovery Act (CRCRA) (42 U.S.C. Section 6901 et seq.); or

iii. Which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, any State of the United States, or any political subdivision thereof; or

iv. The presence of which on the Property causes or threatens to cause a nuisance upon the Property or to adjacent properties or poses or threatens to pose a hazard to the Property or to the health or safety of persons on or about the Property; or

v. Which contains volatile organic compounds such as gasoline, diesel fuel or other petroleum hydrocarbons; or

vi. Which contains polychlorinated biphenyls (PCBs) or asbestos or asbestos-containing materials or urea formaldehyde foam insulation; or

vii. Radon gas at concentrations exceeding State or Federal acceptable levels, as applicable at the time of review.

24. **Environmental Covenants.** Trustor shall at all times comply with the following requirements:

A. **No Use, Disposal or Storage.** Trustor shall not cause, permit or suffer any Hazardous Material (as defined in Section 21) to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath the Property or any portion thereof by Trustor, its agents, employees, contractors, invitees, tenants, or any other person, except to the extent commonly used in the day to day construction or operation of the Property and then only so long as in compliance with all Environmental Requirements including these requirements (as defined in Section 23).

B. **Compliance with Environmental Requirements.** Trustor shall not cause, permit or suffer the existence or the commission by Trustor, its agents, employees, or contractors of a violation of any Environmental Requirements upon, about or beneath the Property or any portion thereof and Trustor shall use its best efforts to prevent any such violation of any Environmental Requirements by any invitees, tenants or any other person. Trustor shall notify City in writing of any release of Hazardous Materials at, on, under or within the Property in violation of any Environmental Requirements, or of the presence of Hazardous Materials at the Property in violation of any Environmental Requirements, promptly upon discovery of such release or presence.

C. **Environmental Liens.** Trustor shall not create or suffer to exist with respect to the Property, or permit any of its agents to create or suffer to exist any lien, security interest or other charge or encumbrance of any kind, including without limitation, any lien imposed pursuant to Section 107(f) of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (42 U.S.C. Section 9607(1)) or any similar state statute, and Trustor shall use its best efforts to prevent the creation of any such lien, security interest, charge or encumbrance by any of its tenants and shall not permit any of such tenants to suffer to exist any of such items.

D. **Mitigation.** Notwithstanding the obligation of Trustor to indemnify pursuant to the Loan Documents, Trustor shall, at its sole cost and expense, promptly take all actions required by any federal, state or local governmental agency or political subdivision or reasonably necessary to mitigate Environmental Damages (as defined herein) and to allow full economic use of the Property (using the use of the Property as a multi-family housing complex, subject to the terms of the Regulatory Agreement, as the standard for such full economic use), which requirements of necessity arise from the presence upon, about or beneath the Property, of a Hazardous Material or a violation of Environmental Requirements. Such actions, which, except when required by any federal, state or local government agency or political subdivision, Trustor shall be required to take only when reasonable, shall include, but not be limited to, the investigation of the environmental condition of the Property, the preparation of and feasibility studies, reports or remedial plans, and the performance of any cleanup, remediation, containment, operation, maintenance, monitoring or restoration work, whether on or off of the Property. Trustor shall take all actions necessary to restore the Property to the condition existing prior to the introduction of Hazardous Material(s) upon, about or beneath the Property, notwithstanding any lesser standard of remediation allowable under applicable law or governmental policies. Trustor shall proceed continuously and diligently with such investigatory and remedial actions, provided that in all cases such actions shall be in accordance with all applicable requirements of governmental entities. Any such actions shall be performed in a good, safe and workmanlike manner and shall minimize any impact on the business conducted at the Property. Trustor shall pay all costs in connection with such investigatory and remedial activities, including but not limited to all power and utility costs, and any and all taxes or fees that may be applicable to such activities. Trustor shall promptly provide to City copies of testing results and reports that are generated in connection with the above activities. Promptly upon completion of such investigation and remediation, Trustor shall permanently seal or cap all monitoring wells and test holes to industrial standards in compliance with applicable federal, state and local laws and regulations, remove all associated equipment, and restore the Property to the maximum extent possible, which shall include, without limitation, the repair of any surface damage, including paving, caused by such investigation or remediation hereunder.

E. **Notice of Environmental Risks.** If Trustor shall become aware of or receive notice or other communication concerning any actual, alleged, suspected or threatened violation of Environmental Requirements, or liability of Trustor for Environmental Damages in connection with the Property or past or present activities of any person thereon, or that any information supplied to City is not or is no longer accurate in any material respect, including but not limited to notice or other communication concerning any actual or threatened investigation, inquiry, lawsuit, claim, citation, directive, summons, proceeding, complaint, notice, order, writ, or injunction, relating to same, and including without limitation any notice or other communication from any tenant, then Trustor shall deliver to City, within ten (10) calendar days of the receipt of such notice or communication by Trustor, a written description of said violation, liability, correcting information or actual or threatened event or condition, together with copies of any documents evidencing same. Receipt of such notice shall not be deemed to create any obligation on the part of City to defend or otherwise respond to any such notification.

F. **Notice of Test Results.** Trustor shall promptly provide to City the results of any tests and copies of all registration permits regarding any underground storage tanks located on the Property and Trustor shall comply with the same.

G. **Right to Enter and Inspect.** In the event City reasonably believes that there has been a release or threatened release of a Hazardous Material on the Property, or a breach of an Environmental Requirement or in the event of any default under this Deed of Trust or under the Note, City shall have the right in its sole and absolute discretion, but not the duty, to enter upon the Property at any reasonable time, at the expense of Trustor, to conduct an inspection of the Property including invasive tests and the activities conducted thereon to determine compliance with all Environmental Requirements and the existence of any Environmental damages as a result of the condition of the Property or any surrounding properties and activities thereon. Trustor hereby grants to City, and the agents, employees, consultants and contractors of City, the right to enter upon the Property and to perform such tests on the Property as are necessary to conduct such reviews and investigations in accordance with the preceding sentence. City shall use its best efforts to minimize interference with the business of Trustor and to restore the condition of the Property, but City shall not be liable for any interference caused thereby or failure to restore if City determines in its sole discretion that it is not economically practicable.

H. **Reimbursement of City.** In the event of any default under the Loan Documents, including the Deed of Trust or under the note, Trustor shall promptly reimburse City for any environmental studies or tests which City deems necessary to ascertain the presence and/or level of any Hazardous Materials on the Property.

25. **Environmental Representations.** Trustor hereby represents and warrants as of the date hereof as follows:

A. **Handling of Hazardous Materials.** Neither Trustor nor, to the best knowledge of Trustor, any previous trustor, tenant, occupant or user of the Property, nor any other person, has engaged in or permitted any operations or activities upon, or any use or occupancy of the Property, or any portion thereof, for the purpose of or in any way involving the handling, manufacture, treatment, storage, use, generation, release, discharge, refining, dumping

or disposal of any Hazardous Materials (whether legal or illegal, accidental or intentional) on, under, in or about the Property, except to the extent commonly used in the day to day operation of the Property and then only as long as in compliance with all Environmental Requirements, or transported any Hazardous Materials to, from or across the Property, nor to the best knowledge of Trustor are any Hazardous Materials presently constructed, deposited, stored, or otherwise located on, under, in or about the Property, nor to the best knowledge of Trustor have any Hazardous Materials migrated from the Property upon or beneath other properties, nor to the best knowledge of Trustor have any Hazardous Materials migrated from other properties upon, about or beneath the Property except as set forth in the Phase I Environmental Report (or any other environmental report) provided to the City.

B. **Compliance with Environmental Requirements.** Existing uses and activities on the Property, including but not limited to the use, maintenance and operation of the Property, and all activities and conduct of business related thereto, comply with all Environmental Requirements, and no activity on the Property constitutes a nuisance or a tortious condition with respect to any third party.

C. **Permits and Authorizations.** Trustor has obtained any or all permits, licenses and other authorizations which may be required under all Environmental Requirements, including laws relating to emissions, discharges, releases or threatened releases of Hazardous Material into the environment (including ambient air, surface water, ground water or land) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Material. Trustor is in compliance with all terms and conditions of any required permits, licenses and authorizations, and is also in compliance with all other Environmental Requirements.

D. **Notice of Claims or Liability.** Neither Trustor nor, to the best knowledge of Trustor, any prior trustor, occupant or user of the Property has received notice or other communication concerning any alleged violation of Environmental Requirements, or notice or other communication concerning alleged liability for Environmental Damages in connection with the Property, and, to the best knowledge of Trustor after due inquiry, there exists no writ, injunction, decree, order or judgment outstanding, nor any lawsuit, claim, proceeding, citation, directive, summons or investigation, pending or threatened, relating to the ownership, use, maintenance or operation of the Property by any person or entity, or from any alleged violation of Environmental Requirements, or from any suspected presence of Hazardous Material thereon, nor, to the best knowledge of Trustor after due inquiry, does there exist any basis for such lawsuit, claim, proceeding, citation, directive, summons or investigation being instituted or filed.

E. **PCBs and Other Materials Disclosed in Questionnaire.** To the best knowledge of Trustor, there is not constructed, placed, deposited, stored, disposed of nor located on the Property any polychlorinated biphenyls (PCBs) nor transformers, capacitors, ballasts, or other equipment which contains dielectric fluid containing PCBs, or any asbestos or asbestos-containing materials or any insulating material containing urea formaldehyde or any radon gas. To the best knowledge of Trustor, except as has been disclosed to City in writing, no underground improvements, including but not limited to treatment or storage tanks, or water, gas or oil wells are or have been located on the Property.

F. The above representations and warranties contained in this Section shall survive the termination and release of this Deed of Trust and the discharge of Trustor's other obligations hereunder.

26. **Environmental Indemnity.** Trustor agrees to indemnify, reimburse, defend, exonerate, pay and hold harmless (a) City, its affiliates and their respective successors and assigns who acquire all or any portion of the loan secured by this Deed of Trust or the Property in any manner, including but not limited to, purchase at a foreclosure sale, acceptance of a deed in lieu thereof or otherwise through the exercise of the rights and remedies of City under this Deed of Trust and (b) the directors, officers, shareholders, employees, successors, assigns, agents, contractors, subcontractors, experts, licensees, affiliates, lessees, mortgagees, trustees, and invitees of City and such other persons or entities, from and against any and all Environmental Damages arising from the presence of Hazardous Materials upon, about or beneath the Property or migrating to or from the Property prior to or during Trustor's use or ownership of the Property, or arising in any manner whatsoever out of the violation of any Environmental Requirements pertaining to the Property and the activities thereon, or the breach of any warranty or covenant or the inaccuracy of any representation of Trustor contained in this Deed of Trust unless and to the extent such Environmental Damages exist solely as a result of the gross negligence or willful misconduct of the otherwise indemnified person. This obligation shall include, but not be limited to, the burden and expense of defending all claims, suits and administrative proceedings (with counsel chosen by Trustor and reasonably approved by the indemnified parties), even if such claims, suits or proceedings are groundless, false or fraudulent, and conducting all negotiations of any description, and paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due against such indemnified persons.

27. **Environmental Remedies Cumulative.** Notwithstanding anything to the contrary in this Deed of Trust, the rights of City and the obligations of Trustor created under the foregoing Sections 23, 24, 25, and 26 shall be in addition to those other rights and obligations, respectively, created or imposed by statutory, common or case law.

28. **Condemnation.** Subject to the rights of any Senior Lender, all judgments, awards of damages, settlements, and compensation made in connection with or in lieu of taking any part of or interest in the Security under assertion of the power of eminent domain ("Funds") are hereby assigned to and shall be paid to Beneficiary. Beneficiary is authorized (but not required) to receive any funds and is authorized to apply any such Funds to any indebtedness or obligation secured hereby, in such order and manner as Beneficiary determines. Any part of the Funds may be released to Trustor upon such conditions as Beneficiary may impose for its disposition. Application or release of any Funds shall not cure or waive any default under this Deed of Trust.

29. **Acceleration on Transfer of Security.** In the event that Trustor, without the prior written consent of Beneficiary, sells, agrees to sell, transfers, or conveys its interest in the Security or any part thereof, Beneficiary may at its option declare all sums secured by this Deed of Trust to be immediately due and payable. This option shall not apply in case of:

A. The grant of leaseholds to qualifying households who will occupy Project units as provided for under the Loan Documents;

B. The sale or transfer of fixtures or personal property pursuant to the grant provisions in this Deed of Trust or any Senior Deed of Trust, defined below;

C. The transfer of a limited partnership interest to a tax credit investor or the subsequent transfer by such tax credit investor to a successor tax credit investor in which Wells Fargo Affordable Housing Community Development Corporation (“Investor Limited Partner”) or an affiliate thereof, or its successor, is a general partner or managing member;

D. The acquisition of the Property by any Senior Lender, defined below, pursuant to foreclosure or deed in lieu of foreclosure; or

E. The removal by the Investor Limited Partner of any general partner of the Trustor and its replacement as general partner by the Investor Limited Partner, which removal shall be in accordance with the terms of the organizational documents of the Trustor, or the transfer of the Investor Limited Partner’s interest or the Project under any option or right of first refusal granted to a general partner of the Trustor; provided that (a) Trustor must provide Beneficiary with advance written notice of the identity of any entity replacing the Trustor General Partner and (b) upon request by Beneficiary and/or Trustee from time to time, the Trustor shall provide Beneficiary and/or Trustee Lender with the names of all owners of interests in Trustor.

F. Consent to one (1) sale or transfer shall not be deemed to be a waiver of the right to require such consent to future or successive transactions.

G. Withdrawal by Managing General Partner from Borrower, provided that another Managing General partner approved by the City in writing is first designated.

30. **Reconveyance by Trustee.** This Deed of Trust is intended to continue for the entire term of the Loan. Upon written request of Beneficiary stating that all sums secured by this Deed of Trust have been paid and all other obligations cured by this Deed of Trust have been discharged, and upon surrender of this Deed of Trust to Trustee for cancellation and retention, and upon payment by Trustor of Trustee’s reasonable fees, Trustee shall reconvey the Security to Trustor, or to the person or persons legally entitled thereto.

DEFAULT AND REMEDIES

31. **Events of Default.** Any of the events listed in any of the Loan Documents, including the Loan Agreement as an Event of Default, subject to the notice and cure provisions therein, shall also constitute an Event of Default under this Deed of Trust, including, but not limited to, (a) Trustor’s failure to pay when due any sums payable or perform any of its other covenants, agreements or obligations under the Note, or the Loan Agreement; (b) Trustor’s failure to observe or to perform any of its covenants, agreements, or obligations under this Deed of Trust (after expiration of applicable cure periods); or (c) Trustor’s failure to make any payment or perform any of its other covenants, agreements, or obligations under any other

agreement with respect to financing for the Project or the Security, whether or not Beneficiary is a party to such agreement.

32. **Acceleration of Maturity.** Upon the happening of an Event of Default which has not been cured within the times and in the manner provided in the Loan Agreement and/or the Note, Beneficiary may declare all sums advanced to Trustor under the Note and this Deed of Trust immediately due and payable.

33. **Beneficiary's Remedies.** Upon the happening of an Event of Default which has not been cured within the times and in the manner provided in the Loan Agreement or the Note, Beneficiary may, subject to the terms of the Subordination Agreement with Senior Lender, in addition to other rights and remedies permitted by the Loan Documents, including the Loan Agreement, the Note, or applicable law, proceed with any of the following remedies:

A. Enforce the assignment of rents and right to possession as provided for in this Deed of Trust, and/or seek appointment of a receiver to take over possession of the Security and collect rents;

B. Enter the Security and take any actions necessary in its judgment to complete construction on the Security as permitted under assignment of rents and right to possession in this Deed of Trust, either in person or through a receiver appointed by a court;

C. Disburse from Loan proceeds any amount necessary to cure any Monetary Default (as set forth in Section 64(A) of the Loan Agreement) under this Deed of Trust, the Loan Agreement, or the Note;

D. Commence an action to foreclose this Deed of Trust pursuant to California Code of Civil Procedure sections 725a, et seq., and/or seek appointment of a receiver from a court of competent jurisdiction with the authority to protect Beneficiary's interests in the Security, including the authority to complete construction of improvements;

E. Deliver to Trustee a written declaration of Default and demand for sale, and a written Notice of Default and election to cause Trustor's interest in the Security to be sold, which notice Trustee or Beneficiary shall duly file for record in the official records of Sacramento County, and exercise its power of sale as provided for below; or

F. Pursue any other rights and remedies allowed at law or in equity.

34. **Foreclosure by Power of Sale.** Should Beneficiary elect to foreclose by exercise of the power of sale contained in this Deed of Trust, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust (the deposit of which shall be deemed to constitute evidence that the unpaid sums disbursed under the Note are immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require. The financing shall be subject to the terms of the Subordination Agreement with Senior Lender.

Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and Election to Sell as then required

by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Security, at the time and place of sale fixed by it in the notice of Sale. The sale of the Security shall be as a whole or in separate lots or parcels or items as Trustee shall deem expedient and in such order as it may determine unless specified otherwise by Trustor, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to the purchaser its deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee, or Beneficiary, may purchase at the sale.

Trustee may postpone sale of the Security by public announcement at such time and place of sale, and from time to time may postpone the sale by public announcement at the time and place fixed by the preceding postponement or may, in its discretion, give a new Notice of Sale.

After deducting all reasonable costs and fees of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale as follows: (a) first, to payment of all sums then secured by this Deed of Trust, in such order and amounts as Beneficiary in its sole discretion determines; and (b) the remainder, if any, to the person or persons legally entitled thereto.

35. **Remedies Cumulative.** No right, power, or remedy conferred upon Beneficiary by this Deed of Trust is intended to be exclusive of any other rights, powers, or remedies, but each such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power, and remedy given hereunder or existing at law or in equity.

GENERAL PROVISIONS

36. **Governing Law.** This Deed of Trust shall be interpreted under and governed by the laws of the State of California, except for those provisions preempted by federal law. However, the laws of the State of California shall not be applied to the extent that they would require or allow the court to use the laws of another state or jurisdiction. Borrower agrees that all actions or proceedings arising in connection with this Deed of Trust shall be tried and litigated only in the state and federal courts located in the State of California, except that Lender, in its sole discretion, may elect that all such actions or proceedings be tried and litigated in the County of Sacramento or the United States District Court for the Eastern District of California.

37. **Attorneys' Fees and Costs.** In the event of any Event of Default, or any legal or administrative action is commenced to interpret or enforce the terms of this Deed of Trust, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action. Any such amounts paid by Beneficiary, if it is the prevailing party, shall be added to the indebtedness secured by the lien of this Deed of Trust.

38. **Statement of Obligation.** Beneficiary may collect a fee not to exceed the maximum allowable under applicable law for furnishing a statement of obligations as provided in the California Civil Code.

39. **Time.** Time is of the essence in this Deed of Trust.

40. **Notices, Demands, and Communications.** Formal notices, demands, and communications between Trustor and Beneficiary shall be given by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Trustor and Beneficiary as set forth below, or if any such office is relocated, to the new address specified by the relocated party. A copy of any written notice sent to Borrower shall be sent to Wells Fargo Affordable Housing Community Development Corporation as follows:

LENDER/BENEFICIARY: ATTN: City Manager
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, CA 95758

WITH COPY TO: ATTN: City Attorney
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, CA 95758

BORROWER/TRUSTOR: ATTN: Caleb Roope
Elk Grove Pacific Associates II, a California Limited
Partnership
430 East State Street, Suite 100
Eagle, ID 83616

WITH COPIES TO: ATTN: Mike Kelley
Kelley Ventures LLC
555 Capitol Mall, Suite 410
Sacramento, CA 95816

ATTN: Mark Wiese
PacH Affordable Holdings, LLC
2115 J Street, Suite 201
Sacramento, CA 95816

ATTN: David Cohen
Katten Muchin Rosenman LLC
2029 Century Park East, Suite 2600
Los Angeles, CA 90067

ATTN: Director of Tax Credit Asset Management
Wells Fargo Affordable Housing Community Development
Corporation
301 South College Street, MAC D1053-170
Charlotte, NC 28288

ATTN: Craig A. de Ridder, Esq.

Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037

SENIOR LENDER:

If notice occurs during the construction term send to:

ATTN: Mary Hodge
Wells Fargo Bank, National Association
Community Lending and Investment
1300 S.W. Fifth Avenue, 12th Floor
MAC P6101-121
Portland, Oregon 97201
Loan No. 1017238

If notice occurs past the construction term send to:

Rabobank, N.A.
618 W Main Street
Visalia, CA 93291

If the recipient refuses or rejects delivery, notice is deemed complete as of the date on which the Notice is so refused or rejected, as conclusively established by the records of the United States Postal Service or such express courier service.

41. **Binding upon Successors.** All provisions of this Deed of Trust shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of Trustor, Trustee, and Beneficiary.

42. **Waiver.** Any waiver by Beneficiary of any obligation of Trustor in this Deed of Trust must be in writing. No waiver shall be implied from any delay or failure by Beneficiary to take action on any breach or default of Trustor or to pursue any remedy allowed under this Deed of Trust or applicable law. Any extension of time granted to Trustor to perform any obligation under this Deed of Trust shall not operate as a waiver or release from any of its obligations under this Deed of Trust. Consent by Beneficiary to any act or omission by Trustor shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for Beneficiary's written consent to future waivers.

43. **Amendments and Modifications.** Any amendments or modifications to this Deed of Trust must be in writing, and shall be made only if agreed upon by Trustor and Beneficiary.

44. **Loan Agreement Controls.** If there is any contradiction between this instrument and the Loan Agreement, the terms of the Loan Agreement shall control, except that Trustor shall have no defense or claim that this instrument does not establish a valid lien on the Property or the Security.

45. **Definitions.** Capitalized terms not otherwise defined in this Deed of Trust shall have the same meaning as defined in the Loan Agreement or other pertinent Loan Documents.

46. **Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, recomposition, or other proceedings affecting Trustor, its creditors or its property, Trustee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by Trustor hereunder after such date.

47. **Severability.** Every provision of this Deed of Trust is intended to be severable. If any provision of this Deed of Trust is declared to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt or the Security, the unsecured or partially secured portion of the debt and all payments made on the debt (whether voluntary or under foreclosure or other enforcement action or procedure) shall be considered to have been first applied to the payment of that portion of the debt which is not secured by the lien of this Deed of Trust.

48. **Substitution of Trustees.** Beneficiary may, from time to time, appoint another trustee to act in the place of Trustee or any successor. Upon such appointment and without conveyance, the successor trustee shall be vested with all title, powers, and duties conferred upon Trustee. Each such appointment and substitution, shall be made by a written instrument executed by Beneficiary containing reference to this Deed of Trust and its place of record, which, when duly recorded in the Sacramento County Office of the Recorder shall be conclusive proof of proper appointment of the successor trustee.

49. **Acceptance by Trustee.** Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Except as otherwise provided by law, Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

50. **Counterparts.** This Deed of Trust and all other agreements executed pursuant to this Agreement may be executed in counterpart originals, each of which shall be deemed an original, but all of which, together shall constitute one and the same instrument.

51. **Lender's Signatory Authority.** Any provision of the Loan Documents, including this Deed of Trust, requiring the signature, consent, authorizing waiver, and/or approval of the Lender shall mean the signature of the City Manager or his/her designee.

52. **Agreement and Acknowledgement of Contract.** Trustor and Beneficiary acknowledge and agree that this Deed of Trust has been negotiated at arm's length, that each party has been represented by independent counsel and/or has had an opportunity to consult with and be represented by independent counsel, that this Deed of Trust is deemed to be drafted by both parties, that no one party shall be construed as the drafter of this Deed of Trust, and that any

rule of construction that ambiguities are to be construed against the drafter shall not apply in the interpretation or construction of this Deed of Trust.

53. **Authority.** The person(s) signing this Deed of Trust hereby represents and warrants that he/she is fully authorized to sign this Deed of Trust on behalf of their respective party and to legally bind such party to the performance of its obligations hereunder.

54. **Nonrecourse.** The obligations of Trustor under this Deed of Trust are limited in the manner and to the extent provided in Section 9 of the Note.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the date first above written.

TRUSTOR:

ELK GROVE PACIFIC ASSOCIATES II,
a California limited partnership

By: PacH Affordable Holdings, LLC,
a California limited liability company
Its: Managing General Partner

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation
its Sole Member and Manager

By: _____
Mark A. Wiese, President

By: TPC Holdings IV, LLC,
an Idaho limited liability company doing business in California as TPC Idaho Holdings
IV, LLC
Its: Co-Administrative General Partner

By: _____
Name: Caleb Roope
Its: Manager

By: Kelley Ventures, LLC,
a California limited liability company
Its: Co-Administrative General Partner

By: _____
Name: Mike Kelley
Its: Manager

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODES 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODES 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

EXHIBIT A

Legal Description

REAL PROPERTY IN THE CITY OF ELK GROVE, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA,
DESCRIBED AS
FOLLOWS:

PARCEL 1 AS SHOWN ON THE PARCEL MAP ENTITLED "PARCEL MAP NO. 11-023 JONE'S PARCEL MAP"
FILED FOR RECORD ON DECEMBER 20, 2011 AT THE OFFICE OF THE SACRAMENTO COUNTY
RECORDER IN BOOK 217 OF PARCEL MAPS, PAGE 17.

APN: 115-0162-033

EXHIBIT C

Financing Plan

[See attached document]

Bow Street Apts. I - 9%
A 50-Unit Workforce Housing Community
Elk Grove, CA

Financial Pro Forma

Rev. 5/7/17

Prepared By:

Caleb Roope
Pacific West Communities, Inc.
430 East State Street, Suite 100
Eagle, ID 83616

208.461.0022 x 3015
208.461.3267 fax
calebr@tpchousing.com

DEVELOPMENT BUDGET
Bow Street Apts. I - 9%
Elk Grove, CA

	Project Costs	Cost Per Unit	Cost Per Res. Sq. Ft.	Tax Credit Eligible Basis
Total Land & Demolition Costs	\$ 1,005,000	\$ 20,100	\$ 18.87	XXXXXXXXXX
Total Acquisition Costs	\$ -	\$ -	\$ -	\$ -
New Construction and/or Rehabilitation				
Off-Site Work	\$ -	\$ -	\$ -	\$ -
Commercial Space	\$ -	\$ -	\$ -	\$ -
On Site Work	\$ 1,300,000	\$ 26,000	\$ 24.41	\$ 1,300,000
Structures	\$ 6,476,690	\$ 129,534	\$ 121.59	\$ 6,476,690
General Requirements	\$ 466,601	\$ 9,332	\$ 8.76	\$ 466,601
Contractor Overhead	\$ 155,534	\$ 3,111	\$ 2.92	\$ 155,534
Contractor Profit	\$ 466,601	\$ 9,332	\$ 8.76	\$ 466,601
Construction Contingency	\$ 450,000	\$ 9,000	\$ 8.45	\$ 450,000
Total Construction Costs	\$ 9,315,426	\$ 186,309	\$ 174.89	\$ 9,315,426
Financing Costs				
Construction Loan Interest	\$ 210,000	\$ 4,200	\$ 3.94	\$ 210,000
Construction Loan Fee	\$ 105,000	\$ 2,100	\$ 1.97	\$ 105,000
Construction Lender Costs (Legal, Etc.)	\$ 60,000	\$ 1,200	\$ 1.13	\$ 60,000
Bond Issuer & Trustee Fees	\$ -	\$ -	\$ -	\$ -
Permanent Loan Fees	\$ 15,000	\$ 300	\$ 0.28	XXXXXXXXXX
Permanent Loan Costs	\$ 25,000	\$ 500	\$ 0.47	XXXXXXXXXX
Tax Credit Fees	\$ 83,069	\$ 1,661	\$ 1.56	XXXXXXXXXX
Bond Counsel	\$ -	\$ -	\$ -	XXXXXXXXXX
Asset Management Fees	\$ 75,000	\$ 1,500	\$ 1.41	XXXXXXXXXX
Total Financing Costs	\$ 573,069	\$ 11,461	\$ 10.76	\$ 375,000
Soft Costs				
Architectural	\$ 230,000	\$ 4,600	\$ 4.32	\$ 230,000
Engineering/Surveying/Environmental	\$ 100,000	\$ 2,000	\$ 1.88	\$ 100,000
Taxes During Construction	\$ 15,000	\$ 300	\$ 0.28	\$ 15,000
Insurance	\$ 232,900	\$ 4,658	\$ 4.37	\$ 232,900
Title & Recording	\$ 60,000	\$ 1,200	\$ 1.13	\$ 60,000
Borrower Attorney	\$ 60,000	\$ 1,200	\$ 1.13	\$ 60,000
Appraisal	\$ 10,000	\$ 200	\$ 0.19	\$ 10,000
Local Tap, Building Permit, & Impact Fees	\$ 2,409,481	\$ 48,190	\$ 45.24	\$ 2,409,481
Marketing	\$ 62,058	\$ 1,241	\$ 1.17	XXXXXXXXXX
Relocation Costs	\$ -	\$ -	\$ -	XXXXXXXXXX
Furnishings	\$ 50,000	\$ 1,000	\$ 0.94	\$ 50,000
Cost Certification	\$ 10,000	\$ 200	\$ 0.19	\$ 10,000
Market Study	\$ 10,000	\$ 200	\$ 0.19	\$ 10,000
Soft Cost Contingency	\$ 128,649	\$ 2,573	\$ 2.42	\$ 128,649
Developer Overhead & Profit	\$ 1,000,000	\$ 20,000	\$ 18.77	\$ 1,000,000
Consultant Fee	\$ -	\$ -	\$ -	\$ -
Total Soft Costs	\$ 4,378,088	\$ 87,562	\$ 82.19	\$ 4,316,030
Reserves				
Rent Reserve (Post Construction Interest)	\$ 131,500	\$ 2,630	\$ 2.47	XXXXXXXXXX
Operating Reserve	\$ 175,000	\$ 3,500	\$ 3.29	XXXXXXXXXX
Total Reserve Costs	\$ 306,500	\$ 6,130	\$ 5.75	XXXXXXXXXX
Totals	\$ 15,578,083	\$ 311,562	\$ 292.46	\$ 14,006,456

SOURCES & USES

Bow Street Apts. I - 9% Elk Grove, CA

CONSTRUCTION PHASE

PERMANENT PHASE

Sources of Funds	
Tax Credit Financing	\$ 3,198,948
City of Elk Grove	\$ 120,000
County Fee Waiver	\$ 684,135
Other	\$ -
Other	\$ -
Other	\$ -
Deferred Costs	\$ 175,000
Deferred Contractor Profit	\$ -
Deferred Developer Fee	\$ 1,000,000
Construction Loan	\$ 10,400,000
Total Sources of Funds	\$ 15,578,083

Sources of Funds	
Total Tax Credit Financing	\$ 13,718,948
Permanent Loan	\$ 875,000
City of Elk Grove	\$ 300,000
County Fee Waiver	\$ 684,135
Other	\$ -
Other	\$ -
Other	\$ -
Other	\$ -
Other	\$ -
Other	\$ -
Other	\$ -
Total Sources of Funds	\$ 15,578,083

Uses of Funds	
Total Land & Demolition Costs	\$ 1,005,000
Total Acquisition Costs	\$ -
New Construction and/or Rehabilitation	\$ 8,865,426
Construction Contingency	\$ 450,000
Financing Costs	\$ 573,069
Architecture & Engineering	\$ 330,000
Other Soft Costs	\$ 2,919,439
Developer Fees	\$ 1,000,000
Soft Cost Contingency	\$ 128,649
Reserves	\$ 306,500
Total Uses of Funds	\$ 15,578,083

Uses of Funds	
Total Land & Demolition Costs	\$ 1,005,000
Total Acquisition Costs	\$ -
New Construction and/or Rehabilitation	\$ 8,865,426
Construction Contingency	\$ 450,000
Financing Costs	\$ 573,069
Architecture & Engineering	\$ 330,000
Other Soft Costs	\$ 2,919,439
Developer Fees	\$ 1,000,000
Soft Cost Contingency	\$ 128,649
Reserves	\$ 306,500
Total Uses of Funds	\$ 15,578,083

FINANCING & COMPLIANCE DETAILS

Rev. 5/7/17

Bow Street Apts. I - 9%

Elk Grove, CA

PERMANENT FINANCING																			
Total Project Costs	<i>Tie-Breaker</i>	10.502%	\$ 15,578,083																
Tax Credit Financing																			
Tax Credit Eligible Basis			\$ 14,006,456																
Less: Grant Proceeds & Other Exclusions	\$	-																	
Voluntary Basis Reduction	\$	684,135																	
Requested Eligible Basis			\$ 13,322,321																
Difficult to Develop Bonus (Yes - 130%, No - 100%)		130%																	
Total Adjusted Eligible Basis			\$ 17,319,018																
Times % of Affordable Units or Sqr. Ft.		100.00%																	
Qualified Basis Eligible to Receive Tax Credits			\$ 17,319,018																
Less Voluntary Credit Reduction	0.00%	\$	-																
			\$ 17,319,018																
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 20%; text-align: center;">Federal Credits</th> <th style="width: 20%; text-align: center;">State Credits</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td>Times Credit % TCAC Est.</td> <td style="text-align: center;">9.00%</td> <td style="text-align: center;">30.00%</td> <td></td> </tr> <tr> <td>Times Number of Years</td> <td style="text-align: center;">10</td> <td style="text-align: center;">1</td> <td></td> </tr> <tr> <td>Total Tax Credits</td> <td style="text-align: center;">\$ 15,244,800</td> <td style="text-align: center;">\$ -</td> <td style="text-align: center;">= \$ 15,244,800</td> </tr> </tbody> </table>					Federal Credits	State Credits		Times Credit % TCAC Est.	9.00%	30.00%		Times Number of Years	10	1		Total Tax Credits	\$ 15,244,800	\$ -	= \$ 15,244,800
	Federal Credits	State Credits																	
Times Credit % TCAC Est.	9.00%	30.00%																	
Times Number of Years	10	1																	
Total Tax Credits	\$ 15,244,800	\$ -	= \$ 15,244,800																
Syndicated at an Investment Rate of	99.99%	at a Price of	\$ 0.9000																
	\$ 0.90		\$ 0.65																
Equals Tax Credit Equity Proceeds			\$ 13,718,948																
Total Tax Credit Financing		88.07%	\$ (13,718,948)																
Permanent Loan		5.62%	\$ (875,000)																
City of Elk Grove		1.93%	\$ (300,000)																
County Fee Waiver		4.39%	\$ (684,135)																
Other		0.00%	\$ -																
Other		0.00%	\$ -																
Other		0.00%	\$ -																
Financing Shortfall / (Overage)		0.00%	\$ -																

Max. HOME - No Davis Bacon		HOME Units	#	Max. Subsidy	Subsidy by Type	Total Limit
Max. HOME Units	0	1-Bedroom	0	\$ -	\$ -	\$ -
Ratio to Tot. Units	0.00%	2-Bedroom	0	\$ -	\$ -	Loan Amount
Tot. Project Costs	\$ 15,578,083	3-Bedroom	0	\$ -	\$ -	\$ -
HOME Loan	\$ -	4-Bedroom	0	\$ -	\$ -	O.K.

Compliance with LIHTC Eligible Basis Limits			
Unit Size	Number of Units	Sacramento County Basis Limits	Totals
1	12	\$ 184,370	\$ 2,212,440
2	25	\$ 222,400	\$ 5,560,000
3	13	\$ 284,672	\$ 3,700,736
4	0	\$ -	\$ -
Base Limit			\$ 11,473,176
Base Limit Plus Adjustments			\$ 13,098,522
Requested Eligible Basis			\$ 14,006,456
% Below / (Above) Cost Limit			-6.9316%

Construction Financing	
Tax Credit Financing	\$ 3,198,948
City of Elk Grove	\$ 120,000
County Fee Waiver	\$ 684,135
Other	\$ -
Other	\$ -
Other	\$ -
Deferred Costs	\$ 175,000
Deferred Contractor Profit	\$ -
Deferred Developer Fee	\$ 1,000,000
Construction Loan	\$ 10,400,000
Total Project Costs	\$ 15,578,083

OPERATING & LOAN DETAILS

Project: Bow Street Apts. I - 9%

Location: Elk Grove, CA Rev. 5/7/17

Type	AMI Rent Level	Number of Units	Avg. Unit Sq. Ft.	Gross Rent	Utility Allowance	Net Rent	Monthly Totals	Annual Totals
1BR/1BA	30%	1	771	417	65	352	352	4,224
1BR/1BA	45%	6	771	626	65	561	3,366	40,392
1BR/1BA	50%	4	771	696	65	631	2,524	30,288
1BR/1BA	60%	1	771	835	65	770	770	9,240
2BR/1BA	30%	4	984	501	84	417	1,668	20,016
2BR/1BA	45%	11	984	751	84	667	7,337	88,044
2BR/1BA	50%	8	984	835	84	751	6,008	72,096
2BR/1BA	60%	1	984	1,002	84	918	918	11,016
3BR/2BA	30%	2	1,219	579	112	467	934	11,208
3BR/2BA	45%	5	1,219	868	112	756	3,780	45,360
3BR/2BA	50%	5	1,219	965	112	853	4,265	51,180
3BR/2BA	60%	1	1,219	1,158	112	1,046	1,046	12,552
4BR/2BA	30%	0	0	0	0	0	0	0
4BR/2BA	45%	0	0	0	0	0	0	0
4BR/2BA	50%	0	0	0	0	0	0	0
4BR/2BA	60%	0	0	0	0	0	0	0
2BR/1BA	Manager's	1	984	0	0	0	0	0

Total Units & Sq. Ft.	50	49,699	% of Sq. Ft.	% of Units
Communtiy Facilities		3,566	Affordable	Affordable
Total Project Sq. Ft.		53,265	100.00%	100.00%

\$ 32,968 \$ 395,616

Operating Deficit Guarantee	
10% of Perm.	\$ 87,500
Year 1 Op. Exp.	\$ 285,000
Guarantee	\$ 285,000

Total Annual Rental Income **\$ 395,616**

Replacement Reserves	
Standard/Unit	\$ 250
UMR Min/Unit	\$ 600
Reserve / Unit	\$ 250

Other Income

Laundry	/Unit/Year	\$ 100	\$ 5,000
Tenant Charges & Interest	/Unit/Year	\$ 50	\$ 2,500

Total Annual Other Income **\$ 7,500**

Total Annual Potential Gross Income **\$ 403,116**

Vacancy & Collection Loss **7%** \$ (28,218)

Annual Effective Gross Income **\$ 374,898**

Project Unit Mix		
Unit Type	Number	% of Total
1 Bdrm./1 Bath.	12	24.00%
2 Bdrm./1 Bath.	25	50.00%
3 Bdrm./2 Bath.	13	26.00%
4 Bdrm./2 Bath.	0	0.00%
Totals	50	100.00%

Average Affordability			
Unit Type	Number	% of Units	Factor
30%	7	14.29%	0.04
45%	22	44.90%	0.20
50%	17	34.69%	0.17
60%	3	6.12%	0.04
Average Affordability			45.51%

OPERATING & LOAN DETAILS (continued)

Project: Bow Street Apts. I - 9%

Location: Elk Grove, CA Rev. 5/7/17

ANNUAL EXPENSES

Real Estate Taxes & Special Assessments
 State Taxes
 Insurance
 Licenses
 Fuel & Gas
 Electricity
 Water & Sewer
 Trash Removal
 Pest Control
 Building & Maintenance Repairs
 Building & Maintenance Supplies
 Supportive Services
 Annual Issuer & Trustee Fees
 Gardening & Landscaping
 Management Fee
 On-Site Manager(s)
 Other Payroll
 Manager's Unit Expense
 Cleaning Supplies
 Benefits
 Payroll Taxes & Work Comp
 Advertising
 Telephone
 Legal & Accounting
 Operating Reserves
 Office Supplies & Expense
 Miscellaneous Administrative
 Replacement Reserves

	% of Annual EGI	% of Total Operating Exp.	Per Unit	Total
	13.16%	17.32%	\$ 987.00	\$ 49,350
	0.21%	0.28%	\$ 16.00	\$ 800
	2.67%	3.51%	\$ 200.00	\$ 10,000
	0.09%	0.12%	\$ 7.00	\$ 350
	0.19%	0.25%	\$ 14.00	\$ 700
	1.52%	2.00%	\$ 114.00	\$ 5,700
	7.60%	10.00%	\$ 570.00	\$ 28,500
	3.81%	5.00%	\$ 285.00	\$ 14,300
	0.27%	0.35%	\$ 20.00	\$ 1,000
	9.12%	12.00%	\$ 684.00	\$ 34,200
	4.56%	6.00%	\$ 342.00	\$ 17,100
	2.13%	2.81%	\$ 160.00	\$ 8,000
	0.00%	0.00%	\$ -	\$ -
	4.56%	6.00%	\$ 342.00	\$ 17,100
	4.00%	5.16%	\$ 294.00	\$ 14,700
	6.40%	8.42%	\$ 480.00	\$ 24,000
	4.56%	6.00%	\$ 342.00	\$ 17,100
	0.00%	0.00%	\$ -	\$ -
	0.77%	1.00%	\$ 57.00	\$ 2,900
	0.53%	0.70%	\$ 40.00	\$ 2,000
	2.53%	3.33%	\$ 190.00	\$ 9,500
	1.15%	1.50%	\$ 86.00	\$ 4,300
	0.21%	0.28%	\$ 16.00	\$ 800
	0.80%	1.05%	\$ 60.00	\$ 3,000
	0.00%	0.00%	\$ -	\$ -
	0.27%	0.35%	\$ 20.00	\$ 1,000
	1.63%	2.18%	\$ 124.00	\$ 6,100
	3.33%	4.39%	\$ 250.00	\$ 12,500

Annual Expenses - Per Unit & Total

\$ 5,700 \$ 285,000

Annual Net Operating Income - Per Unit & Total

\$ 1,798 \$ 89,898

PERMANENT DEBT ANALYSIS

Cap Rate
 Loan-To-Value Restriction
 Debt Service Coverage
 Loan Amount
 Constant
 Interest Rate
 Amortization Period in Years
 Annual Debt Service
 Annual Cash Flow
 Loan Selection

<i>LTV Restricted Loan Amounts</i>			<i>DSC Ratio Restricted Loan Amounts</i>		
8.500%	9.000%	9.500%	**	**	<i>Fixed Loan Amount</i>
90%	90%	90%	**	**	
1.42	1.51	1.59	1.15	1.20	
\$ 951,861	\$ 898,980	\$ 851,665	\$ 1,176,936	\$ 1,127,897	\$ 875,000
**	**	**	0.066420	0.066420	0.066420
5.750%	5.750%	5.750%	5.750%	5.750%	5.750%
35	35	35	35	35	35
\$ 63,223	\$ 59,710	\$ 56,568	\$ 78,172	\$ 74,915	\$ 58,116
\$ 26,675	\$ 30,188	\$ 33,330	\$ 11,726	\$ 14,983	\$ 31,782
					X

**Bow Street Apts. I - 9%
Multi-Year Stabilized Operating Pro-Forma**

Elk Grove, CA

Rev. 5/7/17

RENTAL INCOME	% AMI	Net Rent / Unit - Year 1	No. of Units	Annual Increase	Year 1	Year 2	Year 3	Year 4	Year 5
1BR/1BA	30%	352	1	2.5%	4,224	4,330	4,438	4,549	4,663
1BR/1BA	45%	561	6	2.5%	40,392	41,402	42,437	43,498	44,585
1BR/1BA	50%	631	4	2.5%	30,288	31,045	31,821	32,617	33,432
1BR/1BA	60%	770	1	2.5%	9,240	9,471	9,708	9,950	10,199
2BR/1BA	30%	417	4	2.5%	20,016	20,516	21,029	21,555	22,094
2BR/1BA	45%	667	11	2.5%	88,044	90,245	92,501	94,814	97,184
2BR/1BA	50%	751	8	2.5%	72,096	73,898	75,746	77,640	79,580
2BR/1BA	60%	918	1	2.5%	11,016	11,291	11,574	11,863	12,160
3BR/2BA	30%	467	2	2.5%	11,208	11,488	11,775	12,070	12,372
3BR/2BA	45%	756	5	2.5%	45,360	46,494	47,656	48,848	50,069
3BR/2BA	50%	853	5	2.5%	51,180	52,460	53,771	55,115	56,493
3BR/2BA	60%	1,046	1	2.5%	12,552	12,866	13,187	13,517	13,855
4BR/2BA	30%	0	0	2.5%	-	-	-	-	-
4BR/2BA	45%	0	0	2.5%	-	-	-	-	-
4BR/2BA	50%	0	0	2.5%	-	-	-	-	-
4BR/2BA	60%	0	0	2.5%	-	-	-	-	-
2BR/1BA	Manager's	0	1	2.5%	-	-	-	-	-
TOTAL RENTAL INCOME			50		395,616	405,506	415,644	426,035	436,686
OTHER INCOME			Units	Incr./Yr.	Year-1	Year-2	Year-3	Year-4	Year-5
Laundry			50	2.5%	5,000	5,125	5,253	5,384	5,519
Tenant Charges & Interest			50	2.5%	2,500	2,563	2,627	2,692	2,760
TOTAL OTHER INCOME					7,500	7,688	7,880	8,077	8,279
TOTAL INCOME					403,116	413,194	423,524	434,112	444,965
Less Vacancy Allowance				7%	(28,218)	(28,924)	(29,647)	(30,388)	(31,148)
GROSS INCOME					374,898	384,270	393,877	403,724	413,817
OPERATING EXPENSES	Per Unit - Yr. 1	%EGI	Incr./Yr.		Year-1	Year-2	Year-3	Year-4	Year-5
Advertising	\$ 86	1.1%	3.5%		4,300	4,451	4,606	4,767	4,934
Legal	\$ 40	0.5%	3.5%		2,000	2,070	2,142	2,217	2,295
Accounting/Audit	\$ 20	0.3%	3.5%		1,000	1,035	1,071	1,109	1,148
Security	\$ -	0.0%	3.5%		-	-	-	-	-
Other: Telephone, Office Expense, Misc.	\$ 158	2.1%	3.5%		7,900	8,177	8,463	8,759	9,065
Management Fee	\$ 294	3.9%	3.5%		14,700	15,215	15,747	16,298	16,869
Fuel	\$ 4	0.1%	3.5%		200	207	214	222	230
Gas	\$ 10	0.1%	3.5%		500	518	536	554	574
Electricity	\$ 114	1.5%	3.5%		5,700	5,900	6,106	6,320	6,541
Water/Sewer	\$ 570	7.6%	3.5%		28,500	29,498	30,530	31,598	32,704
On-Site Manager	\$ 480	6.4%	3.5%		24,000	24,840	25,709	26,609	27,541
Maintenance Personnel	\$ 342	4.6%	3.5%		17,100	17,699	18,318	18,959	19,623
Other: Payroll Taxes, Work Comp, Benefits	\$ 230	3.1%	3.5%		11,500	11,903	12,319	12,750	13,197
Insurance	\$ 200	2.7%	3.5%		10,000	10,350	10,712	11,087	11,475
Painting	\$ 50	0.7%	3.5%		2,500	2,588	2,678	2,772	2,869
Repairs	\$ 634	8.5%	3.5%		31,700	32,810	33,958	35,146	36,376
Trash Removal	\$ 286	3.8%	3.5%		14,300	14,801	15,319	15,855	16,410
Exterminating	\$ 20	0.3%	3.5%		1,000	1,035	1,071	1,109	1,148
Grounds	\$ 342	4.6%	3.5%		17,100	17,699	18,318	18,959	19,623
Elevator	\$ -	0.0%	3.5%		-	-	-	-	-
Other: Cleaning & Building Supplies	\$ 400	5.3%	3.5%		20,000	20,700	21,425	22,174	22,950
Other: Licenses	\$ 7	0.1%	3.5%		350	362	375	388	402
Other: State Tax	\$ 16	0.2%	3.5%		800	828	857	887	918
Other:	\$ -	0.0%	3.5%		-	-	-	-	-
Other:	\$ -	0.0%	3.5%		-	-	-	-	-
Other:	\$ -	0.0%	3.5%		-	-	-	-	-
TOTAL OPERATING EXPENSES	\$ 4,303				215,150	222,680	230,474	238,541	246,890
Internet Expense	\$ -	0.0%	3.5%		-	-	-	-	-
Service Amenities	\$ 160	2.1%	3.5%		8,000	8,280	8,570	8,870	9,180
Reserve for Replacement	\$ 250	3.3%	0.0%		12,500	12,500	12,500	12,500	12,500
Real Estate Taxes	\$ 987	13.2%	2.0%		49,350	50,337	51,344	52,371	53,418
TOTAL EXPENSES, TAXES & RESERVES	\$ 5,700				285,000	293,797	302,888	312,281	321,988
CASH FLOW AVAILABLE FOR DEBT SERVICE					89,898	90,473	90,989	91,443	91,829
DEBT SERVICE & OTHER DISTRIBUTIONS		Loan Amount			Year-1	Year-2	Year-3	Year-4	Year-5
Permanent Loan	Hard	\$ 875,000			58,116	58,116	58,116	58,116	58,116
City of Elk Grove Asset Management Fees	Soft	\$ 1,000			1,000	1,000	1,000	1,000	1,000
Non-Profit Asset Management Fees	Soft	\$ 5,000			5,000	5,150	5,305	5,464	5,628
Other	Soft	\$ -			-	-	-	-	-
City of Elk Grove	Soft	\$ 300,000			-	-	-	-	-
Other	Soft	\$ -			-	-	-	-	-
Other	Soft	\$ -			-	-	-	-	-
Other	Soft	\$ -			-	-	-	-	-
ANNUAL NET CASH FLOW					25,782	26,207	26,569	26,863	27,085
Deferred Dev. Fee Balance	Interest Rate:	0.00%			-	-	-	-	-
Debt Service Coverage Ratio on Hard Debt					1.55	1.56	1.57	1.57	1.58

Bow Street Apts. I - 9% Elk Grove, CA
Multi-Year Stabilized Operating Pro-Forma

RENTAL INCOME	% AMI	Net Rent / Unit - Year 1	No. of Units	Annual Increase	Year 6	Year 7	Year 8	Year 9	Year 10	
1BR/1BA	30%	352	1	2.5%	4,779	4,899	5,021	5,147	5,275	
1BR/1BA	45%	561	6	2.5%	45,700	46,842	48,013	49,214	50,444	
1BR/1BA	50%	631	4	2.5%	34,268	35,125	36,003	36,903	37,826	
1BR/1BA	60%	770	1	2.5%	10,454	10,716	10,983	11,258	11,539	
2BR/1BA	30%	417	4	2.5%	22,646	23,212	23,793	24,388	24,997	
2BR/1BA	45%	667	11	2.5%	99,614	102,104	104,657	107,273	109,955	
2BR/1BA	50%	751	8	2.5%	81,570	83,609	85,699	87,842	90,038	
2BR/1BA	60%	918	1	2.5%	12,464	12,775	13,095	13,422	13,757	
3BR/2BA	30%	467	2	2.5%	12,681	12,998	13,323	13,656	13,997	
3BR/2BA	45%	756	5	2.5%	51,321	52,604	53,919	55,267	56,648	
3BR/2BA	50%	853	5	2.5%	57,905	59,353	60,837	62,358	63,917	
3BR/2BA	60%	1,046	1	2.5%	14,201	14,556	14,920	15,293	15,676	
4BR/2BA	30%	0	0	2.5%	-	-	-	-	-	
4BR/2BA	45%	0	0	2.5%	-	-	-	-	-	
4BR/2BA	50%	0	0	2.5%	-	-	-	-	-	
4BR/2BA	60%	0	0	2.5%	-	-	-	-	-	
2BR/1BA	Manager's	0	1	2.5%	-	-	-	-	-	
TOTAL RENTAL INCOME			50		447,603	458,793	470,263	482,020	494,070	
OTHER INCOME				Units	Incr./Yr.	Year-6	Year-7	Year-8	Year-9	Year-10
Laundry			50	2.5%	5,657	5,798	5,943	6,092	6,244	
Tenant Charges & Interest			50	2.5%	2,829	2,899	2,972	3,046	3,122	
TOTAL OTHER INCOME					8,486	8,698	8,915	9,138	9,366	
TOTAL INCOME					456,089	467,491	479,178	491,158	503,437	
Less Vacancy Allowance				7%	(31,926)	(32,724)	(33,542)	(34,381)	(35,241)	
GROSS INCOME					424,163	434,767	445,636	456,777	468,196	
OPERATING EXPENSES	Per Unit - Yr. 1	%EGI	Incr./Yr.	Year-6	Year-7	Year-8	Year-9	Year-10		
Advertising	\$ 86	1.1%	3.5%	5,107	5,286	5,471	5,662	5,860		
Legal	\$ 40	0.5%	3.5%	2,375	2,459	2,545	2,634	2,726		
Accounting/Audit	\$ 20	0.3%	3.5%	1,188	1,229	1,272	1,317	1,363		
Security	\$ -	0.0%	3.5%	-	-	-	-	-		
Other: Telephone, Office Expense, Misc.	\$ 158	2.1%	3.5%	9,383	9,711	10,051	10,403	10,767		
Management Fee	\$ 294	3.9%	3.5%	17,459	18,070	18,703	19,357	20,035		
Fuel	\$ 4	0.1%	3.5%	238	246	254	263	273		
Gas	\$ 10	0.1%	3.5%	594	615	636	658	681		
Electricity	\$ 114	1.5%	3.5%	6,770	7,007	7,252	7,506	7,769		
Water/Sewer	\$ 570	7.6%	3.5%	33,849	35,034	36,260	37,529	38,843		
On-Site Manager	\$ 480	6.4%	3.5%	28,504	29,502	30,535	31,603	32,710		
Maintenance Personnel	\$ 342	4.6%	3.5%	20,309	21,020	21,756	22,517	23,306		
Other: Payroll Taxes, Work Comp, Benefits	\$ 230	3.1%	3.5%	13,658	14,136	14,631	15,143	15,673		
Insurance	\$ 200	2.7%	3.5%	11,877	12,293	12,723	13,168	13,629		
Painting	\$ 50	0.7%	3.5%	2,969	3,073	3,181	3,292	3,407		
Repairs	\$ 634	8.5%	3.5%	37,650	38,967	40,331	41,743	43,204		
Trash Removal	\$ 286	3.8%	3.5%	16,984	17,578	18,194	18,830	19,489		
Exterminating	\$ 20	0.3%	3.5%	1,188	1,229	1,272	1,317	1,363		
Grounds	\$ 342	4.6%	3.5%	20,309	21,020	21,756	22,517	23,306		
Elevator	\$ -	0.0%	3.5%	-	-	-	-	-		
Other: Cleaning & Building Supplies	\$ 400	5.3%	3.5%	23,754	24,585	25,446	26,336	27,258		
Other: Licenses	\$ 7	0.1%	3.5%	416	430	445	461	477		
Other: State Tax	\$ 16	0.2%	3.5%	950	983	1,018	1,053	1,090		
Other:	\$ -	0.0%	3.5%	-	-	-	-	-		
Other:	\$ -	0.0%	3.5%	-	-	-	-	-		
Other:	\$ -	0.0%	3.5%	-	-	-	-	-		
TOTAL OPERATING EXPENSES	\$ 4,303			255,531	264,474	273,731	283,311	293,227		
Internet Expense	\$ -	0.0%	3.5%	-	-	-	-	-		
Service Amenities	\$ 160	2.1%	3.5%	9,501	9,834	10,178	10,534	10,903		
Reserve for Replacement	\$ 250	3.3%	0.0%	12,500	12,500	12,500	12,500	12,500		
Real Estate Taxes	\$ 987	13.2%	2.0%	54,486	55,576	56,688	57,821	58,978		
TOTAL EXPENSES, TAXES & RESERVES	\$ 5,700			332,019	342,384	353,097	364,167	375,608		
CASH FLOW AVAILABLE FOR DEBT SERVICE				92,144	92,383	92,539	92,609	92,587		
DEBT SERVICE & OTHER DISTRIBUTIONS	Loan Amount			Year-6	Year-7	Year-8	Year-9	Year-10		
Permanent Loan	<i>Hard</i> \$ 875,000			58,116	58,116	58,116	58,116	58,116		
City of Elk Grove Asset Management Fees	<i>Soft</i> \$ 1,000			1,000	1,000	1,000	1,000	1,000		
Non-Profit Asset Management Fees	<i>Soft</i> \$ 5,000			5,796	5,970	6,149	6,334	6,524		
Other	<i>Soft</i> \$ -			-	-	-	-	-		
City of Elk Grove	<i>Soft</i> \$ 300,000			-	-	-	-	-		
Other	<i>Soft</i> \$ -			-	-	-	-	-		
Other	<i>Soft</i> \$ -			-	-	-	-	-		
Other	<i>Soft</i> \$ -			-	-	-	-	-		
ANNUAL NET CASH FLOW				27,232	27,296	27,274	27,160	26,947		
Deferred Dev. Fee Balance	Interest Rate:	0.00%		-	-	-	-	-		
Debt Service Coverage Ratio on Hard Debt				1.59	1.59	1.59	1.59	1.59		

Multi-Year Stabilized Operating Pro-Forma

RENTAL INCOME	% AMI	Net Rent / Unit - Year 1	No. of Units	Annual Increase	Year 11	Year 12	Year 13	Year 14	Year 15		
1BR/1BA	30%	352	1	2.5%	5,407	5,542	5,681	5,823	5,968		
1BR/1BA	45%	561	6	2.5%	51,705	52,998	54,323	55,681	57,073		
1BR/1BA	50%	631	4	2.5%	38,771	39,740	40,734	41,752	42,796		
1BR/1BA	60%	770	1	2.5%	11,828	12,124	12,427	12,737	13,056		
2BR/1BA	30%	417	4	2.5%	25,622	26,263	26,919	27,592	28,282		
2BR/1BA	45%	667	11	2.5%	112,704	115,521	118,409	121,370	124,404		
2BR/1BA	50%	751	8	2.5%	92,289	94,596	96,961	99,385	101,870		
2BR/1BA	60%	918	1	2.5%	14,101	14,454	14,815	15,186	15,565		
3BR/2BA	30%	467	2	2.5%	14,347	14,706	15,074	15,450	15,837		
3BR/2BA	45%	756	5	2.5%	58,065	59,516	61,004	62,529	64,092		
3BR/2BA	50%	853	5	2.5%	65,515	67,153	68,831	70,552	72,316		
3BR/2BA	60%	1,046	1	2.5%	16,068	16,469	16,881	17,303	17,736		
4BR/2BA	30%	0	0	2.5%	-	-	-	-	-		
4BR/2BA	45%	0	0	2.5%	-	-	-	-	-		
4BR/2BA	50%	0	0	2.5%	-	-	-	-	-		
4BR/2BA	60%	0	0	2.5%	-	-	-	-	-		
2BR/1BA	Manager's	0	1	2.5%	-	-	-	-	-		
TOTAL RENTAL INCOME					50	506,422	519,082	532,060	545,361	558,995	
OTHER INCOME			Units	Incr./Yr.	Year-11	Year-12	Year-13	Year-14	Year-15		
Laundry			50	2.5%	6,400	6,560	6,724	6,893	7,065		
Tenant Charges & Interest			50	2.5%	3,200	3,280	3,362	3,446	3,532		
TOTAL OTHER INCOME						9,601	9,841	10,087	10,339	10,597	
TOTAL INCOME						516,023	528,923	542,146	555,700	569,592	
Less Vacancy Allowance				7%	(36,122)	(37,025)	(37,950)	(38,899)	(39,871)		
GROSS INCOME						479,901	491,898	504,196	516,801	529,721	
OPERATING EXPENSES	Per Unit - Yr. 1	% EGI	Incr./Yr.	Year-11	Year-12	Year-13	Year-14	Year-15			
Advertising	\$ 86	1.1%	3.5%	6,066	6,278	6,498	6,725	6,960			
Legal	\$ 40	0.5%	3.5%	2,821	2,920	3,022	3,128	3,237			
Accounting/Audit	\$ 20	0.3%	3.5%	1,411	1,460	1,511	1,564	1,619			
Security	\$ -	0.0%	3.5%	-	-	-	-	-			
Other: Telephone, Office Expense, Misc.	\$ 158	2.1%	3.5%	11,144	11,534	11,937	12,355	12,788			
Management Fee	\$ 294	3.9%	3.5%	20,736	21,462	22,213	22,990	23,795			
Fuel	\$ 4	0.1%	3.5%	282	292	302	313	324			
Gas	\$ 10	0.1%	3.5%	705	730	756	782	809			
Electricity	\$ 114	1.5%	3.5%	8,040	8,322	8,613	8,915	9,227			
Water/Sewer	\$ 570	7.6%	3.5%	40,202	41,609	43,065	44,573	46,133			
On-Site Manager	\$ 480	6.4%	3.5%	33,854	35,039	36,266	37,535	38,849			
Maintenance Personnel	\$ 342	4.6%	3.5%	24,121	24,965	25,839	26,744	27,680			
Other: Payroll Taxes, Work Comp, Benefits	\$ 230	3.1%	3.5%	16,222	16,790	17,377	17,985	18,615			
Insurance	\$ 200	2.7%	3.5%	14,106	14,600	15,111	15,640	16,187			
Painting	\$ 50	0.7%	3.5%	3,526	3,650	3,778	3,910	4,047			
Repairs	\$ 634	8.5%	3.5%	44,716	46,281	47,901	49,577	51,313			
Trash Removal	\$ 286	3.8%	3.5%	20,172	20,878	21,608	22,365	23,147			
Exterminating	\$ 20	0.3%	3.5%	1,411	1,460	1,511	1,564	1,619			
Grounds	\$ 342	4.6%	3.5%	24,121	24,965	25,839	26,744	27,680			
Elevator	\$ -	0.0%	3.5%	-	-	-	-	-			
Other: Cleaning & Building Supplies	\$ 400	5.3%	3.5%	28,212	29,199	30,221	31,279	32,374			
Other: Licenses	\$ 7	0.1%	3.5%	494	511	529	547	567			
Other: State Tax	\$ 16	0.2%	3.5%	1,128	1,168	1,209	1,251	1,295			
Other:	\$ -	0.0%	3.5%	-	-	-	-	-			
Other:	\$ -	0.0%	3.5%	-	-	-	-	-			
Other:	\$ -	0.0%	3.5%	-	-	-	-	-			
TOTAL OPERATING EXPENSES					\$ 4,303		303,490	314,112	325,106	336,485	348,262
Internet Expense	\$ -	0.0%	3.5%	-	-	-	-	-			
Service Amenities	\$ 160	2.1%	3.5%	11,285	11,680	12,089	12,512	12,950			
Reserve for Replacement	\$ 250	3.3%	0.0%	12,500	12,500	12,500	12,500	12,500			
Real Estate Taxes	\$ 987	13.2%	2.0%	60,157	61,361	62,588	63,839	65,116			
TOTAL EXPENSES, TAXES & RESERVES					\$ 5,700		387,432	399,653	412,283	425,336	438,828
CASH FLOW AVAILABLE FOR DEBT SERVICE						92,468	92,245	91,913	91,465	90,893	
DEBT SERVICE & OTHER DISTRIBUTIONS		Loan Amount			Year-11	Year-12	Year-13	Year-14	Year-15		
Permanent Loan	Hard	\$ 875,000			58,116	58,116	58,116	58,116	58,116		
City of Elk Grove Asset Management Fees	Soft	\$ 1,000			1,000	1,000	1,000	1,000	1,000		
Non-Profit Asset Management Fees	Soft	\$ 5,000			6,720	6,921	7,129	7,343	7,563		
Other	Soft	\$ -			-	-	-	-	-		
City of Elk Grove	Soft	\$ 300,000			-	-	-	-	-		
Other	Soft	\$ -			-	-	-	-	-		
Other	Soft	\$ -			-	-	-	-	-		
Other	Soft	\$ -			-	-	-	-	-		
ANNUAL NET CASH FLOW						26,632	26,208	25,669	25,006	24,214	
Deferred Dev. Fee Balance		Interest Rate:	0.00%		-	-	-	-	-		
Debt Service Coverage Ratio on Hard Debt						1.59	1.59	1.58	1.57	1.56	

CONSTRUCTION COST BREAKDOWN

Bow Street Apts. I - 9%

Elk Grove, CA

Rev. 5/7/17

TRADE ITEM #	DESCRIPTION	PER SQ. FT.	PER UNIT	BUDGETED AMOUNT	TOTALS
SITE					
1	Earth Work	8.45	9,000	450,000	
2	Site Utilities - Wet	4.51	4,800	240,000	
3	Site Utilities - Dry	2.25	2,400	120,000	
4	Site Concrete	2.48	2,640	132,000	
5	Roads & Parking	6.72	7,160	358,000	1,300,000
BUILDING					
6	Building - Concrete	9.57	10,200	510,000	
7	Rough Carpentry	30.00	31,960	1,598,000	
8	Siding	12.00	12,784	639,200	
9	Stucco	-	-	-	
10	Finish Carpentry	2.64	2,812	140,600	
11	Insulation	2.22	2,364	118,200	
12	Roofing	3.00	3,196	159,800	
13	Sheet Metal / Stairs	1.44	1,536	76,800	
14	Doors & Hardware	3.15	3,360	168,000	
15	Windows	1.82	1,944	97,200	
16	Mirrors	0.10	102	5,100	
17	Drywall	9.60	10,226	511,300	
18	Gypcrete/Underlayment	0.42	448	22,400	
19	Painting/Decoration	2.52	2,684	134,200	
20	Specialties	0.08	90	4,500	
21	Cabinets	2.52	2,684	134,200	
22	Countertops	0.56	600	30,000	
23	Appliances	2.03	2,160	108,000	
24	Blinds and Shades	0.30	320	16,000	
25	Floor Covering	2.70	2,876	143,800	
26	Special Construction - Solar	-	-	-	
27	Elevators/Bridges	-	-	-	
28	Plumbing	10.93	11,640	582,000	
29	Fire Sprinklers	2.64	2,812	140,600	
30	Heating and Air Conditioning	6.20	6,600	330,000	
31	Electrical	6.53	6,960	348,000	6,017,900
SITE COMPLETION					
32	On-Site Improvements	4.41	4,702	235,090	
33	Landscaping	4.20	4,474	223,700	
34	Off-Sites / Commercial Space	-	-	-	458,790
Total Direct Costs		146.00	155,534		7,776,690
INDIRECT COSTS					
35	General Requirements	8.76	9,332	466,601	
36	Prevailing Wages	-	-	-	
37	General Overhead	2.92	3,111	155,534	
38	Builder's Profit	8.76	9,332	466,601	
39	Contingency (In Owner's Budget)	-	-	-	
Total Indirect Costs		20.44	21,775		1,088,736
TOTAL CONSTRUCTION COSTS		166.44	177,309		8,865,426

EXHIBIT D

Promissory Note

[See attached document]

PROMISSORY NOTE SECURED BY DEED OF TRUST

Bow Street Phase I Affordable Housing Project

Affordable Housing Loan Note

(\$300,000)

July 24, 2017

FOR VALUE RECEIVED, Elk Grove Pacific Associates II, a California Limited Partnership, with its principal office at 430 East State Street, Suite 100, Eagle, Idaho, 83616, (“Borrower”), hereby promises to pay to the order of the CITY OF ELK GROVE, a California municipal corporation, whose address is 8401 Laguna Palms Way, Elk Grove, California, 95758 (“Lender” or “City”), a principal amount equal to THREE HUNDRED THOUSAND DOLLARS (\$300,000), or so much, not to exceed this amount, as may be advanced by Lender to Borrower pursuant to that certain Affordable Housing Loan Agreement dated the date hereof, by and between Borrower and Lender (the “Loan Agreement”). The obligation of Borrower and Lender with respect to all such advances is subject to the terms of: (a) the Loan Agreement; (b) this Note, (c) the Subordination Agreement, as defined in the Loan Agreement, (d) the Deed of Trust, Assignment of Rents, and Security Agreement and Fixture Filing recorded on the real property located at 8627 Bow Street – APN 115-0162-033, Elk Grove, California (the “Property”) by Borrower as Trustor, for the benefit of Lender, as beneficiary, which secures payment of this Loan (the “Deed of Trust”) and (e) that certain Regulatory Agreement by and between Borrower and Lender to be recorded on the Property as contemplated in the Loan Agreement (the “Regulatory Agreement”) (the above documents are collectively referred to as the “Loan Documents”); Borrower also promises to pay to the order of Lender accrued simple interest on the principal balance outstanding at the rate of four percent (4%) per annum in accordance with the payment terms stipulated below.

1. **Borrower’s Obligation.** This Note evidences the obligation of Borrower to Lender for the repayment of funds loaned to Borrower by Lender to finance, in part, the development of fifty (50) units of rental housing in the City of Elk Grove, of which forty-nine (49) are rent-restricted (collectively, the “Regulated Units” as described in the Regulatory Agreement). Of the forty-nine (49) Regulated Units, seven (7) shall be restricted at rents affordable to extremely low-income households, thirty-nine (39) shall be restricted at rents affordable to very low-income households, and three (3) shall be restricted at rents affordable to low-income households, in accordance with the Regulatory Agreement of even date herewith between Borrower and Lender.

2. **Fiscal Year.** For the purposes of this Agreement, the fiscal year for Borrower shall be the twelve (12) month period beginning January 1 and ending December 31 (“Fiscal Year”).

3. **Amount and Time of Payment.** Simple interest will accrue on the loan beginning on the date of each disbursement of loan proceeds. Repayment of principal and accrued interest shall be made in the manner set forth in this Section. Within ninety (90) calendar days of Fiscal Year-end, Borrower shall provide to Lender financial statements audited by a Certified Public Accountant for the Project, together with such other documents as the Lender may reasonably require.

A. Borrower shall make annual payments to Lender in the amounts set forth in Exhibit A, which is attached hereto and incorporated herein by reference, commencing ninety (90) calendar days after the end of the Fiscal Year in which the first payment is due and continuing annually thereafter until the Loan termination date, as provided in Section 4.A, at which time all unpaid principal and accrued interest shall be immediately be due and payable to Lender. For purposes of this Note, “Year One” means the Fiscal Year in which the City issued its final Certificates of Occupancy for the Project.

B. Failure to make any annual payment within ninety (90) calendar days of the Fiscal Year end shall be an Event of Default, as described in Section 64 of the Loan Agreement.

C. All payments shall be applied first to accrued interest, and then to principal.

4. **Maturity Date.** The full amount of the outstanding principal advanced under this Note, together with all accrued but unpaid interest thereon, shall be due and payable in full on the earliest of:

A. Thirty-seven (37) years from the date of the issuance of a Certificate of Occupancy for the Project;

B. The date the Project is sold or the Borrower’s interest in the Property is transferred or conveyed (except as specifically contemplated herein or as permitted in the Deed of Trust); or

C. An Event of Default:

i. By Borrower as defined in the Loan Agreement which has not been cured in the manner and time provided in the Loan Agreement; or

ii. By Owner as defined under the Regulatory Agreement; which has not been cured in the manner and time provided in the Loan Agreement or Regulatory Agreement, as applicable.

D. December 31, 2055.

5. **Asset Management and Compliance Monitoring Fee.** Separate from any payments required by Section 3 of this Note, Owner shall make to Lender an annual asset management and compliance monitoring fee payment in the amount of one thousand dollars (\$1,000), subject to the availability of Residual Cash Flow and prior to any payments to Owner or its general partners. Fee payment shall be due annually within ninety (90) days of the end of the Borrower’s Fiscal Year. Such fee shall not be considered a Loan payment and shall not reduce principal or interest on the Loan.

6. **Refinancing.** Lender approval shall be required for any proposed refinancing, including of the senior permanent financing, such approval not to be unreasonably withheld, all as set forth in Section 29 of the Loan Agreement; provided, however, that Lender approval shall

not be required for any refinancing of senior debt that does not increase the principal amount existing at the time of the refinancing and does not otherwise materially change the terms of the senior loan.

7. **Place and Manner of Payment.** All amounts due and payable under this Note and any Loan Document are payable at the office of Lender as set forth above, or at such other place as Lender may designate to Borrower in writing from time to time, in any currency of the United States which on the date of payment is legal tender for the payment of public and private debts.

8. **Prepayment of Loan.** No prepayment penalty will be charged to Borrower for payment of any portion of this Note prior to the end of the Loan term.

9. **Waivers by Borrower.** Presentment, notice of dishonor, and protest are waived by all makers, sureties, guarantors, and endorsers of this Note.

10. **Default and Acceleration.** This Note is secured by the Deed of Trust. All provisions in the Deed of Trust and the Loan Agreement are hereby incorporated by reference. Borrower agrees that the unpaid balance of the principal amount of this Note, together with all accrued interest thereon and charges owing, shall, at the option of Lender, become immediately due and payable upon any Event of Default as defined in the Loan Agreement or the Regulatory Agreement which has not been cured pursuant to the applicable agreement, including without limitation the failure of Borrower to make any payment when due. Upon any Event of Default, Lender may exercise any other right or remedy permitted under the Loan Documents.

11. **Nonrecourse.** This Loan is a nonrecourse obligation of Borrower. Neither Borrower nor any of its officers, directors, or general and limited partners shall have any personal liability for repaying the principal or interest of the Loan. The sole recourse of Lender for repayment of the principal and interest shall be the exercise of Lender's rights against the Property and/or Project under the Deed of Trust. The foregoing limitation shall not apply to any loss, damage, liability, action, cause of action, cost or expense incurred by Lender as a result, and to the extent of, (a) fraud or material gross misrepresentation; (b) intentional bad faith waste; (c) losses resulting from Borrower's failure to properly maintain insurance as required under the Loan Agreement; and/or (d) gross misappropriation of any of the rents, security deposits, loan proceeds, insurance proceeds, condemnation awards, or any other proceeds derived from the collateral security. In the event of any of the foregoing events (a) through and including (d) occur, Lender shall have the right to proceed directly against Borrower, including its general partners, to recover any loss, damage, liability, action, cause of action, cost, or expense (including without limitation, reasonable attorneys' fees and expenses) incurred by Lender to the extent directly caused by events (a) through and including (d). Pacific West Communities, Inc., an Idaho corporation, which will do business in California as Idaho Pacific West Communities, Inc., shall execute a Guaranty of Non-Recourse Obligations, in the form attached hereto as Exhibit B, providing Lender with certain guarantees as described therein.

The Managing General Partner shall not be personally liable for any of the foregoing events (a) through and including (d) that are committed by any entity other than the Managing General Partner.

12. **Consents and Approvals.** Any consent or approval required under this Note shall not be unreasonably withheld by Lender or Borrower.

13. **Notices.** Any notices, communications, or demands shall be in writing and may be communicated to Lender or Borrower at the addresses set forth in the Loan Agreement.

14. **Binding upon Successors.** All provisions of this Note shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of Borrower and Lender; provided, however, that this section does not waive the prohibition in the Loan Agreement on assignment of the Loan by Borrower without Lender's consent, which shall not be unreasonably withheld.

15. **Assignment and Assumption.** Borrower shall not assign any of its interests under this Note to any other party, except as specifically permitted under the terms of the Loan Documents, without the prior written consent of Lender, which shall not be unreasonably withheld.

16. **Definitions.** Capitalized terms not defined in this Note shall have the same meaning as defined in the Loan Agreement.

17. **Governing Law.** The Loan Documents shall be interpreted under and governed by the laws of the State of California, except for those provisions preempted by federal law. However, the laws of the State of California shall not be applied to the extent that they would require or allow the court to use the laws of another state or jurisdiction. Borrower agrees that all actions or proceedings arising in connection with the Loan Documents shall be tried and litigated only in the state and federal courts located in the State of California, except that Lender, in its sole discretion, may elect that all such actions or proceedings be tried and litigated in the County of Sacramento or the United States District Court for the Eastern District of California.

18. **Conflicts.** In the event of a conflict between terms contained in this Note and the Loan Agreement, the more specific term shall control; however, if neither term is more specific, the terms in this Note shall govern over conflicting provisions in the Loan Agreement.

19. **Severability.** Every provision of this Note is intended to be severable. If any provision of this Note is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired.

20. **Time.** Time is of the essence in this Note.

21. **Attorneys' Fees and Costs.** In the event of any Event of Default, or any legal action is commenced to interpret or to enforce the terms of this Note, the prevailing party in any such action shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action. In addition, Borrower agrees to pay Lender all reasonable costs incurred in collection of amounts due under this Note which are not paid by the due date as specified herein, whether or not a legal action has been filed.

22. **Waiver.** Any waiver by Lender of any obligation in this Note must be in writing. No waiver shall be implied from any delay or failure by Lender to take action on any breach or default by Borrower or to pursue any remedy allowed under this Note or applicable law. Any extension of time granted to Borrower to perform any obligation under this Note must be in writing, signed by Lender and shall not operate as a waiver or release from any of Borrower's obligations under the Note. Consent by Lender to any act or omission by Borrower shall not be construed to be a consent to any other act or omission or to waive the requirement for Lender's written consent to future waivers.

23. **Amendments and Modifications.** Any amendments or modifications to this Note must be in writing, and shall be effective only if executed by both Borrower and Lender.

24. **Counterparts.** This Agreement and all other agreements executed pursuant to this Agreement may be executed in counterpart originals, each of which shall be deemed an original, but all of which, together shall constitute one and the same instrument.

25. **Lender's Signatory Authority.** Any provision of the Loan Documents, including this Note, requiring the signature, consent, authorizing waiver, and/or approval of the Lender shall mean the signature of the City Manager or his/her designee.

26. **Agreement and Acknowledgement of Note.** Borrower and Lender acknowledge and agree that this Note has been negotiated at arm's length, that each party has been represented by independent counsel and/or has had an opportunity to consult with and be represented by independent counsel, that this Note is deemed to be drafted by both parties, that no one party shall be construed as the drafter of this Note, and that any rule of construction that ambiguities are to be construed against the drafter shall not apply in the interpretation or construction of this Note.

27. **Authority.** The person(s) signing this Note hereby represents and warrants that he/she is fully authorized to sign this Note on behalf of their respective party and to legally bind such party to the performance of its obligations hereunder.

28. **Notices, Demands, and Communications.** Formal notices, demands, and communications between Borrower and City shall be given by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Borrower and City as set forth below, or if any such office is relocated, to the new address specified by the relocated party. A copy of any written notice sent to Borrower shall be sent to Wells Fargo Affordable Housing Community Development Corporation as follows:

LENDER/CITY:

ATTN: City Manager
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, California 95758

WITH A COPY TO:

ATTN: City Attorney

City of Elk Grove
8401 Laguna Palms Way
Elk Grove, California 95758

BORROWER/OWNER: ATTN: Caleb Roope
Elk Grove Pacific Associates
430 East State Street, Suite 100
Eagle, ID 83616

BORROWER/OWNER: ATTN: Caleb Roope
Elk Grove Pacific Associates II,
a California Limited Partnership
430 East State Street, Suite 100
Eagle, ID 83616

WITH A COPY TO: ATTN: Mike Kelley
Kelley Ventures LLC
555 Capitol Mall, Suite 410
Sacramento, CA 95816

ATTN: Mark Wiese
PacH Affordable Holdings LLC,
2115 J Street, Suite 201
Sacramento, CA 95816

ATTN: David Cohen
Katten Muchin Rosenman LLC
2029 Century Park East, Suite 2600
Los Angeles, CA 90067

ATTN: Director of Tax Credit Asset
Management
Wells Fargo Affordable Housing Community
Development Corporation
301 South College Street, MAC D1053-170
Charlotte, NC 28288

ATTN: Craig A. de Ridder, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street NW
Washington, DC 20037

If the recipient refuses or rejects delivery, notice is deemed complete as of the date on which the Notice is so refused or rejected, as conclusively established by the records of the United States Postal Service or such express courier service.

[Remainder of Page Intentionally Left Blank]

Executed on July 24, 2017

BORROWER:

ELK GROVE PACIFIC ASSOCIATES II,
a California limited partnership

By: PacH Affordable Holdings, LLC,
a California limited liability company
Its: Managing General Partner

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation
its Sole Member and Manager

By: _____
Mark A. Wiese, President

By: TPC Holdings IV, LLC,
an Idaho limited liability company doing business in California as TPC Idaho Holdings
IV, LLC
Its: Co-Administrative General Partner

By: _____
Name: Caleb Roope
Its: Manager

By: Kelley Ventures, LLC,
a California limited liability company
Its: Co-Administrative General Partner

By: _____
Name: Mike Kelley
Its: Manager

EXHIBIT A

Bow Street Payment Schedule

Borrower shall make payments annually, beginning ninety (90) days after the end of the first full fiscal year of operations.

In the first through fifteenth years (Years 1-15), Borrower shall make no annual payment on the Loan. In the sixteenth through thirty-sixth years (Years 16-36), Borrower shall make annual payments of fifty percent (50%) of Residual Cash Flow. The Loan shall be due and payable in the thirty-seventh year after Year One (Year 37).

The asset management and compliance monitoring fee payment to the City, as described in Section 5 of this Note, shall not be considered a Loan payment.

For the purposes of this Exhibit “A”, the following terms shall have the following meanings:

“OPERATING EXPENSES” shall mean the following costs, fees, and expenses reasonably and actually incurred for the operation and maintenance of the Project to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles consistently applied: property taxes and assessments or payments in lieu thereof; direct payroll expenses and payroll taxes; property management fees and reimbursements in amounts not to exceed five percent (5.0%) of the Project’s effective gross income; premiums for property damage and liability insurance; utility service costs not paid for directly or indirectly by tenants; maintenance, repairs, grounds, pool, and turnover costs; costs associated with accounting; legal fees of Borrower incurred in the ordinary course of business; expenses for security services; expenses for fire alarm monitoring; advertising and marketing costs; and costs and expenses associated with the provision of social and/or community services to the residents of the Project (in an amount of \$8,000 in Year One and increasing a maximum of three and one half percent (3.5%) annually);. Payments to Borrower, its partners, or affiliates in excess of the limitations set forth in this Section shall not be counted toward Operating Expenses for the purpose of calculating Residual Cash Flow.

“RESIDUAL CASH FLOW” means Revenues reduced by the following:

- a. Payment of Operating Expenses for the Project;
- b. Cash deposited into a reserve for capital replacements in the Project and/or an operating reserve in such reasonable amounts as are required by the Project lenders and/or tax credit investor;
- c. Payment of Senior Loan debt service; and
- d. Payment of asset management fees to the tax credit investor (not to exceed \$5,000 annually), the Managing General Partner (not to exceed \$9,800 annually), and the City (not to exceed \$1,000 annually), and each only when/if required by tax credit investor, Managing General Partner, and City.

“REVENUE” means with respect to any period all revenue, income, receipts, and other consideration actually received from operation and leasing of the Project. Revenue shall include, but not be limited to: all rents, fees and charges paid by tenants; Section 8 payments and other rental subsidy payments received for the dwelling units; deposits forfeited by tenants; all cancellation fees, price index adjustments, and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance; the proceeds of casualty insurance not used for rebuilding or required to be paid to the holders of approved Senior Loans (provided however, expenditure of such proceeds for repair or restoration of the Project shall be included within Operating Expenses in the year of the expenditure); condemnation awards for a taking of part or all of the Property or the Project for a temporary period; and the fair market value of any goods or services provided to Borrower in consideration for the leasing or other use of any part of the Project. Revenue shall include any interest on replacement reserves and other reserves, and release of funds from replacement reserves and other reserve accounts to Borrower other than for costs associated with the Project. Revenue shall not include tenants' security deposits, loan proceeds, capital contributions or similar advances, or amounts released from reserves for costs associated with the Project.

EXHIBIT B

Guaranty of Non-Recourse Obligations

[See attached document]

GUARANTY OF NON-RECOURSE OBLIGATIONS

This Guaranty of Non-Recourse Obligations (this “**Guaranty**”), dated as of July 22~~24~~, 2017, is executed by the undersigned Pacific West Communities, Inc., an Idaho corporation, which will do business in California as Idaho Pacific West Communities, Inc. and Pacific West Builders, Inc., an Idaho corporation, which will do business in California as Idaho Pacific West Builders, Inc. (“**Guarantor**”), to and for the benefit of the City of Elk Grove, a California municipal corporation (“**Lender**”).

RECITALS:

A. Pursuant to that certain Affordable Housing Loan Agreement dated as of the date hereof, by and between Elk Grove Pacific Associates II, LP, a California limited partnership (“**Borrower**”) and Lender (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Loan Agreement**”), Lender is making a loan to Borrower in the original principal amount of THREE HUNDRED THOUSAND DOLLARS (\$300,000) (the “**Mortgage Loan**”), as evidenced by that certain Promissory Note secured by Deed of Trust dated as of the date hereof, executed by Borrower and made payable to the order of Lender in the amount of the Mortgage Loan (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Note**”).

B. The Note will be secured by, among other things, a Deed of Trust (as defined in the Loan Agreement) encumbering the real property described in the Deed of Trust (the “**Property**”).

C. Guarantor has an economic interest in Borrower or will otherwise obtain a material financial benefit from the Mortgage Loan.

D. As a condition to making the Loan to Borrower, Lender requires that Guarantor execute this Guaranty.

NOW, THEREFORE, in order to induce Lender to make the Mortgage Loan to Borrower, and in consideration thereof, Guarantor agrees as follows:

AGREEMENTS:

1. **Recitals.**

The recitals set forth above are incorporated herein by reference as if fully set forth in the body of this Guaranty.

2. **Defined Terms.**

Capitalized terms used and not specifically defined herein have the meanings given to such terms in the Loan Agreement.

3. Guaranteed Obligations.

Guarantor hereby absolutely, unconditionally and irrevocably guarantees to Lender the full and prompt payment of any loss, damage, liability, action, cause of action, cost or expense incurred by Lender as a result, and to the extent of, (a) fraud or material gross misrepresentation under the Loan Documents (as defined in the Loan Agreement) (any of them); (b) intentional bad faith waste of the Property; (c) losses resulting from Borrower's failure to properly maintain insurance as required under the Loan Agreement; and/or (d) gross misappropriation of any of the rents, security deposits, loan proceeds, insurance proceeds, condemnation awards or any other proceeds derived from the collateral security (the "**Guaranteed Obligations**"). Lender shall have the right to proceed directly against Guarantor to recover any loss, damage, liability, action, cause of action, cost or expense (including without limitation, reasonable attorneys' fees and expenses) incurred by Lender to the extent directly caused by events (a) through and including (d).

4. Survival of Guaranteed Obligations.

The obligations of Guarantor under this Guaranty shall survive any foreclosure, and any recorded release or reconveyance of the Deed of Trust or any release of any other security for any of the Mortgage Loan.

5. Guaranty of Payment; Community Property.

Guarantor's obligations under this Guaranty constitute a present and unconditional guaranty of payment and not merely a guaranty of collection. If Guarantor (or any Guarantor, if more than one) is a married person, and the jurisdiction of the Property is a community property jurisdiction, Guarantor (or each such married Guarantor, if more than one) agrees that Lender may satisfy Guarantor's obligations under this Guaranty to the extent of all Guarantor's separate property, and if applicable, community property.

6. Obligations Unsecured; Cross-Default.

The obligations of Guarantor under this Guaranty shall not be secured by the Deed of Trust or the Loan Agreement. However, a default under this Guaranty shall be an Event of Default under the Loan Agreement, and a default under this Guaranty shall entitle Lender to be able to exercise all of its rights and remedies under the Loan Agreement and other Loan Documents.

7. Continuing Guaranty.

The obligations of Guarantor under this Guaranty shall be unconditional irrespective of the genuineness, validity, regularity or enforceability of any provision of this Guaranty, the Note, the Loan Agreement, the Deed of Trust or any other Loan Document. Guarantor agrees that performance of the obligations hereunder shall be a primary obligation, shall not be subject to any counterclaim, set-off, recoupment, abatement, deferment or defense based upon any claim that Guarantor may have against Lender, Borrower, any other guarantor of the obligations hereunder or any other person or entity, and shall remain in full force and effect without regard

to, and shall not be released, discharged or affected in any way by any circumstance or condition (whether or not Guarantor shall have any knowledge thereof), including, without limitation:

(a) any furnishing, exchange, substitution or release of any collateral securing repayment of the Mortgage Loan, or any failure to perfect any lien in such collateral;

(b) any failure, omission or delay on the part of Borrower, Guarantor, any other guarantor of the obligations hereunder or Lender to conform or comply with any term of any of the Loan Documents or failure of Lender to give notice of any Event of Default;

(c) any action or inaction by Lender under or in respect of any of the Loan Documents, any failure, lack of diligence, omission or delay on the part of Lender to perfect, enforce, assert or exercise any lien, security interest, right, power or remedy conferred upon it in any of the Loan Documents, or any other action or inaction on the part of Lender;

(d) any voluntary or involuntary bankruptcy, insolvency, reorganization, arrangement, readjustment, assignment for the benefit of creditors, composition, receivership, liquidation, marshaling of assets and liabilities or similar events or proceedings with respect to Guarantor or any other guarantor of the obligations hereunder, or any of their respective property or creditors or any action taken by any trustee or receiver or by any court in such proceeding;

(e) any merger or consolidation of Borrower into or with any entity or any sale, lease or transfer of any asset of Borrower, Guarantor or any other guarantor of the obligations hereunder to any other Person;

(f) any change in the ownership of Borrower or any change in the relationship between Borrower, Guarantor or any other guarantor of the obligations hereunder, or any termination of such relationship;

(g) any release or discharge by operation of law of Borrower, Guarantor or any other guarantor of the obligations hereunder, any obligation or agreement contained in any of the Loan Documents; or

(h) any other occurrence, circumstance, happening or event, whether similar or dissimilar to the foregoing, and whether seen or unforeseen, which otherwise might constitute a legal or equitable defense or discharge of the liabilities of a guarantor or surety or which otherwise might limit recourse against Borrower or Guarantor to the fullest extent permitted by law.

8. Guarantor Waivers.

Guarantor hereby waives:

(a) the benefit of all principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms of this Guaranty (and agrees that Guarantor's obligations shall not be affected by any circumstances, whether or not referred to in this Guaranty, which might otherwise constitute a legal or equitable discharge of a surety or a guarantor);

(b) the benefits of any right of discharge under any and all statutes or other laws relating to guarantors or sureties and any other rights of sureties and guarantors;

(c) diligence in collecting the Mortgage Loan, presentment, demand for payment, protest and all notices with respect to the Loan Documents and this Guaranty which may be required by statute, rule of law or otherwise to preserve Lender's rights against Guarantor under this Guaranty, including notice of acceptance, notice of any amendment of the Loan Documents, notice of the occurrence of any default or Event of Default, notice of intent to accelerate, notice of acceleration, notice of dishonor, notice of foreclosure, notice of protest and notice of the incurring by Borrower of any obligation or indebtedness; and

(d) all rights to require Lender to:

(1) proceed against or exhaust any collateral held by Lender to secure the repayment of the Indebtedness;

(2) proceed against or pursue any remedy it may now or hereafter have against Borrower or any guarantor, or, if Borrower or any guarantor is a partnership, any general partner of Borrower or general partner of any guarantor; or

(3) demand or require collateral security from Borrower, any other guarantor or any other Person as provided by applicable law or otherwise.

(e) To the extent not addressed elsewhere by this Guaranty, Guarantor expressly waives any and all benefits, rights and/or defenses which might otherwise be available to Guarantor under the following sections of the California Civil Code: Section 2809 (the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal), Section 2810 (a surety is not liable if, for any reason other than the mere personal disability of the principal, there is no liability upon the part of the principal at the time of execution of the contract, or the liability of the principal thereafter ceases), Section 2819 (a surety is exonerated if the creditor alters the original obligation of the principal without the consent of the surety), Section 2822 (a surety's right to have the principal designate the portion of any obligation to be satisfied by the surety in the event that the principal provides partial satisfaction of such obligation), Section 2845 (a surety is exonerated to the extent that the creditor fails to proceed against the principal, or to pursue any other remedy in the creditor's power which the surety cannot pursue and which would lighten the surety's burden), Section 2846 (a surety may compel the principal to perform the obligation when due), Section 2847 (if a surety satisfies the principal obligation, or any part thereof, the principal is obligated to reimburse the surety for the amounts paid by the surety), Section 2850 (whenever the property of a surety is hypothecated with property of the principal, the surety is entitled to have the property of the principal first applied to the discharge of the obligation), Section 2899 (where one has a lien upon several things, and other persons have subordinate liens upon, or interests in, some but not all of the same things, the person having the prior lien, if he can do so without risk of loss to himself, or of injustice to other persons, must resort to the property in a certain order, on the demand of any party interested) and Section 3433 (where a creditor is entitled to resort to each of several funds for the satisfaction of his claim, and another person has an interest in, or is entitled as a creditor to resort to some, but not all of them, the latter may

require the former to seek satisfaction from those funds to which the latter has no such claim, so far as it can be done without impairing the right of the former to complete satisfaction, and without doing injustice to third persons).

(f) To the extent not addressed elsewhere by this Guaranty, Guarantor expressly agrees not to exercise or take advantage of any rights, benefits and/or defenses which might be available to Guarantor under the following California Civil Code Sections, unless and until the Guaranteed Obligations shall have been indefeasibly paid and satisfied in full: Section 2839 (performance of the principal obligation, or an offer of such performance, duly made as provided in the Civil Code, exonerates a surety), Section 2848 (a surety, upon satisfaction of the obligation of the principal, is entitled to enforce remedies which the creditor then has against the principal and to pursue his co-sureties or other third parties after the surety has satisfied the underlying debt, or at least more than his share of it), and Section 2849 (a surety is entitled to the benefit of security held by the creditor for the performance of the principal obligation held by the creditor).

(g) This Guaranty is an absolute guaranty of payment and not of collection.

(h) Guarantor waives any defense that Guarantor may have by reason of the failure of Lender to provide Guarantor with any material facts about Borrower, including any information respecting the financial condition of Borrower, Borrower's ability to perform the Mortgage Loan obligations or the sufficiency of Lender's security.

(i) Guarantor waives any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other Person, or the failure of Lender to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons.

(j) Guarantor waives all rights of indemnification and contribution and any other rights and defenses that are or may become available to Guarantor by reason of Sections 2787 to 2855, inclusive, of the California Civil Code. Guarantor hereby waives the benefits of any right of discharge under any and all statutes or other laws relating to guarantors or sureties and any other rights of guarantors or sureties thereunder.

(k) Guarantor waives all rights and defenses that Guarantor may have because the debtor's (Borrower's) debt is secured by real property. This means, among other things:

(1) The creditor (Lender) may collect from Guarantor without first foreclosing on any real or personal property collateral pledged by the debtor.

(2) If the creditor forecloses on any real property collateral pledged by the debtor: (A) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price; and (B) the creditor may collect from Guarantor even if the creditor, by foreclosing on the real property collateral, has destroyed any right Guarantor may have to collect from the debtor.

This is an unconditional and irrevocable waiver of any rights and defenses Guarantor may have because the debtor's debt is secured by real property. These rights and defenses include, but are

not limited to, any rights or defenses based upon Sections 580a, 580b, 580d or 726 of the Code of Civil Procedure.

Guarantor waives all rights and defenses arising out of an election of remedies by the creditor, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed Guarantor's rights of subrogation and reimbursement against the principal (Borrower) by the operation of Section 580d of the Code of Civil Procedure or otherwise.

(l) Any summary of statutory provisions is for convenience only, and Guarantor has read and is familiar with the entirety of such provisions.

9. No Effect upon Obligations.

At any time or from time to time and any number of times, without notice to Guarantor and without releasing, discharging or affecting the liability of Guarantor:

(a) the time for payment of the principal of or interest on the Mortgage Loan may be extended or the Mortgage Loan may be renewed in whole or in part;

(b) the rate of interest on or period of amortization of the Mortgage Loan or the amount of the debt service payable under the Loan Documents may be modified;

(c) the time for Borrower's performance of or compliance with any covenant or agreement contained in any Loan Document, whether presently existing or hereinafter entered into, may be extended or such performance or compliance may be waived;

(d) the maturity of the Mortgage Loan may be accelerated as provided in the Loan Documents;

(e) any or all payments due under the Loan Agreement or any other Loan Document may be reduced;

(f) any Loan Document may be modified or amended by Lender and Borrower in any respect, including an increase in the principal amount of the Mortgage Loan, provided that Guarantor shall receive prior written notice in the event of any modifications to the insurance provisions of the Loan Agreement;

(g) any amounts under the Loan Agreement or any other Loan Document may be released;

(h) any security for the Mortgage Loan may be modified, exchanged, released, surrendered or otherwise dealt with or additional security may be pledged or mortgaged for the Indebtedness;

(i) the payment of the Mortgage Loan or any security for the Mortgage Loan, or both, may be subordinated to the right to payment or the security, or both, of any other present or future creditor of Borrower, with the written consent of Lender;

(j) any payments made by Borrower to Lender may be applied to the Mortgage Loan in such priority as Lender may determine in its discretion; and

(k) any other terms of the Loan Documents may be modified as required by Lender.

10. Subordination of Affiliated Debt.

Any indebtedness of Borrower held by Guarantor now or in the future is and shall be subordinated to the Mortgage Loan and upon an Event of Default under this Guaranty, any such indebtedness of Borrower shall be collected, enforced and received by Guarantor, as trustee for Lender, but without reducing or affecting in any manner the liability of Guarantor under the other provisions of this Guaranty.

11. Subrogation.

Guarantor shall have no right of, and hereby waives any claim for, subrogation or reimbursement against Borrower or any general partner of Borrower by reason of any payment by Guarantor under this Guaranty, whether such right or claim arises at law or in equity or under any contract or statute, until the Mortgage Loan has been paid in full and there has expired the maximum possible period thereafter during which any payment made by Borrower to Lender with respect to the Mortgage Loan could be deemed a preference under applicable bankruptcy laws.

12. Voidable Transfer.

If any payment by Borrower is held to constitute a preference under any applicable bankruptcy laws, or if for any other reason Lender is required to refund any sums to Borrower, such refund shall not constitute a release of any liability of Guarantor under this Guaranty. It is the intention of Lender and Guarantor that Guarantor's obligations under this Guaranty shall not be discharged except by Guarantor's performance of such obligations and then only to the extent of such performance. If any payment by any Guarantor should for any reason subsequently be declared to be void or voidable under any state or federal law relating to creditors' rights, and if Lender is required to repay or restore, in whole or in part, any such voidable transfer, or elects to do so upon the advice of its counsel, then the obligations guaranteed hereunder shall automatically be revived, reinstated and restored by the amount of such voidable transfer or the amount of such voidable transfer that Lender is required or elects to repay or restore, including all reasonable costs, expenses and legal fees incurred by Lender in connection therewith, and shall exist as though such voidable transfer had never been made, and any other guarantor, if any, shall remain liable for such obligations in full.

13. Financial Reporting.

Upon Lender's request, not to exceed once per year, Guarantor shall deliver to Lender third party audited financial statements. The Lender shall take reasonable precautions to keep said financial statements confidential to the extent allowed by law.

14. Final Agreement.

Guarantor acknowledges receipt of a copy of each of the Loan Documents and this Guaranty. THIS GUARANTY REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Guaranty. Neither this Guaranty nor any of its provisions may be waived, modified, amended, discharged or terminated except by an agreement in writing signed by the party against which the enforcement of the waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in that agreement.

15. Governing Law.

This Guaranty shall be interpreted under and governed by the laws of the State of California, except for those provisions preempted by federal law. However, the laws of the State of California shall not be applied to the extent that they would require or allow the court to use the laws of another state or jurisdiction. Owner agrees that all actions or proceedings arising in connection with this Guaranty shall be tried and litigated only in the state and federal courts located in the State of California, except that City, in its sole discretion, may elect that all such actions or proceedings be tried and litigated in the County of Sacramento or the United States District Court for the Eastern District of California.

16. Time is of the Essence.

Guarantor agrees that, with respect to each and every obligation and covenant contained in this Guaranty, time is of the essence.

17. Notices.

Guarantor agrees to notify Lender of any change in Guarantor’s address within ten (10) Business Days after such change of address occurs. Formal notices, demands, and communications between Guarantor and Lender shall be given by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Guarantor and Lender as follows, or if any such office is relocated, to the new address specified by the relocated party:

LENDER: Attn: City Manager
 City of Elk Grove
 8401 Laguna Palms Way
 Elk Grove, CA 95758

WITH COPY TO: Attn: City Attorney
 City of Elk Grove
 8401 Laguna Palms Way
 Elk Grove, CA 95758

GUARANTOR: Attn: Caleb Roope
Pacific West Communities, Inc.
430 East State Street, Suite 100
Eagle, ID 83616

GUARANTOR: Attn: Caleb Roope
Pacific West Builders, Inc.
430 East State Street, Suite 100
Eagle, ID 83616

GUARANTOR'S COUNSEL: ATTN: David Cohen
Katten Muchin Rosenman LLP
2029 Century Park East, Suite 2600
Los Angeles, CA 90067

If the recipient refuses or rejects delivery, notice is deemed complete as of the date on which the notice is so refused or rejected, as conclusively established by the records of the United States Postal Service or such express courier service.

18. Construction.

(a) Any reference in this Guaranty to an "Exhibit" or "Schedule" or a "Section" or an "Article" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an exhibit or schedule attached to this Guaranty or to a Section or Article of this Guaranty.

(b) Any reference in this Guaranty to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time.

(c) Use of the singular in this Guaranty includes the plural and use of the plural includes the singular.

(d) As used in this Guaranty, the term "including" means "including, but not limited to" or "including, without limitation," and is for example only, and not a limitation.

(e) Whenever Guarantor's knowledge is implicated in this Guaranty or the phrase "to Guarantor's knowledge" or a similar phrase is used in this Guaranty, Guarantor's knowledge or such phrase(s) shall be interpreted to mean to the best of Guarantor's knowledge after reasonable and diligent inquiry and investigation.

(f) Unless otherwise provided in this Guaranty, if Lender's approval is required for any matter hereunder, such approval may be granted or withheld in Lender's sole and absolute discretion.

(g) Unless otherwise provided in this Guaranty, if Lender's designation, determination, selection, estimate, action or decision is required, permitted or contemplated hereunder, such designation, determination, selection, estimate, action or decision shall be made in Lender's sole and absolute discretion.

(h) All references in this Guaranty to a separate instrument or agreement shall include such instrument or agreement as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(i) “Lender may” shall mean at Lender’s discretion, but shall not be an obligation.

19. Binding upon Successors.

All provisions of this Guaranty shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of each of the Guarantor.

20. Relationship of Parties.

The relationship of Guarantor with Lender is and shall not be construed as a joint venture, equity venture, partnership, or any other relationship. Lender neither undertakes nor assumes any responsibility or duty to Guarantor (except as provided for herein) or any third party with respect to the project, the Property, or the Loan. Guarantor shall have no authority to act as an agent of Lender or to bind Lender to any obligation.

21. Waiver.

Any waiver by Lender of an obligation in this Guaranty must be in writing. No waiver shall be implied from any delay or failure by Lender to take action on any breach or default of Guarantor or to pursue any remedy allowed herein or by applicable law. Any extension of time granted to Guarantor to perform any obligation under this Guaranty shall not operate as a waiver or release from any of its obligations under this Guaranty. Consent by Lender to any act or omission by Guarantor shall not be construed to be a consent to any other act or omission or to waive the requirement for Lender’s written consent to future waivers.

22. Other Agreements.

Guarantor represents that it has not entered into any agreements that are inconsistent with the terms of this Guaranty. Guarantor shall not enter into any agreements that are inconsistent with terms of this Guaranty without an express waiver by Lender in writing.

23. Amendments and Modification.

Any amendments or modifications to this Guaranty must be in writing, and shall be effective only if executed by Guarantor and Lender.

24. Severability.

Every provision of this Guaranty is intended to be severable. If any provision of this Guaranty is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired.

25. Agreement and Acknowledgement.

Guarantor acknowledges and agrees that this Guaranty has been negotiated at arm's length, that each party has been represented by independent counsel and/or has had an opportunity to consult with and be represented by independent counsel, that this Guaranty is deemed to be drafted by both parties, that no one party shall be construed as the drafter, and that any rule of construction that ambiguities are to be construed against the drafter shall not apply in the interpretation or construction of this Guaranty.

26. Authority.

The person(s) signing this Guaranty hereby represents and warrants that he/she is fully authorized to sign this Guaranty on behalf of their respective party and to legally bind such party to the performance of its obligations hereunder.

ALL SIGNATURES MUST BE NOTARIZED

IN WITNESS WHEREOF, Guarantor has signed and delivered this Guaranty as of the first date set forth above.

GUARANTOR:

Pacific West Communities, Inc.,
an Idaho corporation,
which will do business in California as Idaho
Pacific West Communities, Inc.

By: _____
Caleb Roope, President

GUARANTOR:

Pacific West Builders, Inc.,
an Idaho corporation
which will do business in California as Idaho
Pacific West Builders, Inc.

By: _____
Caleb Roope, President

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODES 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODES 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

EXHIBIT E

Regulatory Agreement

[See attached document]

NO FEE DOCUMENT

RECORDING REQUESTED BY:
AND WHEN RECORDED, MAIL TO:

City of Elk Grove
c/o City Clerk
8401 Laguna Palms Way
Elk Grove, CA 95758

**REGULATORY AGREEMENT
(Bow Street Phase I Affordable Housing Project)**

This Regulatory Agreement (“Regulatory Agreement”) is made as of July 24, 2017, by and between the CITY OF ELK GROVE, a California municipal corporation (“City”), and ELK GROVE PACIFIC ASSOCIATES II, a California Limited Partnership (“Owner”), pursuant to that certain Affordable Housing Loan Agreement dated July 22, 2017, between City and Owner.

RECITALS

A. Owner proposes to develop fifty (50) units of rental housing (the “Project”) at a site located in Elk Grove, California at 8627 Bow Street – APN 115-0162-033 (as more particularly described in Exhibit A, attached hereto and incorporated herein by reference) (the “Property”), which units shall be rented at rents affordable to Qualifying Households according to the schedule contained in Exhibit B (the “Regulated Units”), attached hereto and incorporated by reference herein.

B. The Project shall serve as a community resource by providing decent, safe, and sanitary housing for households who would otherwise be unable to afford such housing. The City has agreed to provide Owner with financial assistance in the form of a loan in an amount not to exceed THREE HUNDRED THOUSAND DOLLARS (\$300,000) (the “Loan”), to support development of the Project. These funds are being provided in order to help achieve financial feasibility for the Project and maximize the affordability of Project units. An Affordable Housing Loan Agreement (“Loan Agreement”) and Promissory Note have been executed by Owner evidencing and regulating certain aspects of the Loan. In addition, a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing has been recorded to secure the Loan; these documents, as well as a Subordination Agreement, as defined in the Loan Agreement, and this Regulatory Agreement are collectively referred to as the “Loan Documents.”

C. As further consideration for this funding and to further the public interests of the City in seeing the Project maintained as affordable housing, Owner has agreed to enter into and record this Regulatory Agreement. The purpose of this Regulatory Agreement is to regulate and restrict the occupancy, rents, operation, ownership, and management of the Project for the benefit of Project occupants and the people of the City of Elk Grove. The covenants in this Regulatory Agreement shall run with the land and be binding on Owner and Owner’s successors to the land for the full term of this Regulatory Agreement.

NOW, THEREFORE, Owner and the City hereby agree as follows:

The foregoing Recitals are true and correct and incorporated into this Regulatory Agreement.

DEFINITIONS

The following terms have the meanings set forth in this section wherever used in this Regulatory Agreement or attached exhibits. Capitalized terms not defined in this Regulatory Agreement shall have the same meaning as defined in the Loan Documents.

1. **Area Median Income** (referred to herein as “AMI”) means the median income for the Metropolitan Statistical Area which includes the City of Elk Grove (“MSA”), with adjustments for household size, as determined from time to time by the U.S. Department of Housing and Urban Development (HUD) pursuant to Section 8(f)(3) of the United States Housing Act of 1937 as amended, or such other method of median income calculation applicable to the City of Elk Grove that HUD may hereafter adopt in connection with said Act. If HUD should cease making such determination, the City may designate another fair method of calculation of area median income used by any federal or state agency and applicable to the City of Elk Grove, provided that such method shall be consistent with the method used by the California Tax Credit Allocation Committee.

2. **City** means the City of Elk Grove, a municipal corporation.

3. **Deed of Trust** means the Deed of Trust, Assignment of Rents and Security Agreement and Fixture Filing placed on the Property as security for the Loan with Owner as trustor and the City as beneficiary, as well as any amendments to, modifications of, and restatements of said Deed of Trust.

4. **Loan** means the loan of funds provided by the City to Owner pursuant to the Loan Agreement.

5. **Loan Agreement** means the Affordable Housing Loan Agreement, executed contemporaneous with this Regulatory Agreement by Owner and the City which governs the Loan, as well any subsequent or contemporaneous amendments to, modifications of, or restatements of said Loan Agreement. The Loan Agreement is on file with the City of Elk Grove.

6. **Loan Documents** means collectively this Regulatory Agreement, the Loan Agreement, Deed of Trust, Subordination Agreement, and Promissory Note for the Project, as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents, and any other document required for the funding of the Loan.

7. **Note** means the promissory note or notes executed by Owner in favor of the City evidencing the Loan, which is secured by the Deed of Trust, as well as any amendments to, modifications of, or restatements of said promissory note. The Note is on file with the City of Elk Grove.

8. **Owner** means Elk Grove Pacific Associates II, a California Limited Partnership, and its successors, assigns, transferees, and/or affiliates who acquire an interest in the Property and/or Project.

9. **Project** means the development and operation of the Property for residential use according to the terms of the Loan Agreement and this Regulatory Agreement.

10. **Property** means the real property described in the attached Exhibit A, which is hereby incorporated into this Regulatory Agreement by this reference, and any buildings or improvements now or hereafter situated on such real property.

11. **Qualifying Household** means a household in which household income does not exceed the percentage of Area Median Income prescribed for the applicable housing unit by the terms of this Regulatory Agreement.

12. **Qualifying Rent** means: a) during the period a regulatory agreement (including without limitation an extended use agreement with the California Tax Credit Allocation Committee) governing the allocation and award of federal tax credits or private activity Bonds is in effect, the maximum rent charged to and paid by a tenant for the occupancy of a Regulated Unit in the Project determined in accordance with such regulatory agreement and 26 U.S.C. Section 42 and underlying rules and regulations (“Tax Credit Law”) based on household size determinations made in accordance with Tax Credit Law, or b) during any other period, the “affordable rent,” charged to and paid by a tenant for the occupancy of a Regulated Unit in the Project including a reasonable allowance for tenant-paid utilities, for the applicable household pursuant to Section 50053 of the California Health and Safety Code, as amended, or any successor statute thereto. Qualifying Rent may be adjusted annually to coincide with the increases in the California Debt Limit Allocation Committee or California Tax Credit Allocation Committee schedule of rents for the Sacramento region, whichever prevails. If Owner does not agree with the adjustment factors provided herein, Owner may, within thirty (30) calendar days of notification by City of that year’s adjustment, present to City information on which it wishes to base its annual rent adjustment. The City will review this information and, in its sole discretion, decide on which adjustment factor Owner shall base its annual rent increase. The decision of the City shall be final. Notwithstanding the above, during the period a regulatory agreement governing the allocation and award of federal tax credits is in effect, the annual rent increase shall not exceed the annual rent increase allowed by Tax Credit Law. Unless stated otherwise in this agreement, the utility allowances permitted for use shall be consistent with those allowed in Sacramento County and published annually by the Sacramento Housing and Redevelopment Agency, or any successor thereto.

13. **Regulated Units** means forty-nine (49) of the fifty (50) rental dwelling units constructed for the Project, affordable to the income levels and having the composition, as set forth in Exhibit B.

OWNER’S OBLIGATIONS

14. **Compliance with Loan Documents.** Owner's actions with respect to the Property and the use of Loan funds shall at all times be in full conformity with the requirements of the Loan Documents.

15. **Term of Agreement.** This Regulatory Agreement shall commence upon execution and shall remain in full force and effect until the later of: (a) fifty-five (55) years after the date Owner obtains a Certificate of Occupancy from the City of Elk Grove for the Project, or (b) when the Owner has repaid the entire Loan to the City. The obligations in this Regulatory Agreement shall remain effective and fully binding on Owner, and its successors, assigns and heirs, for this full term regardless of any expiration of the term of any Loan, any payment, or prepayment of any loan, any assignment of a Note, any reconveyance of a Deed of Trust, or any sale, assignment, transfer, or conveyance of the Property, unless terminated earlier by the City in a recorded writing or extended by mutual consent of the parties.

SUBDIVISION OF PROPERTY; RECIPROCAL EASEMENT AGREEMENT

16. **Subdivision of Property.** City acknowledges that Owner intends to subdivide the Property (the "Subdivision") into two legal parcels, which shall be comprised of one parcel containing the Project (the "Project Parcel") and one parcel (the "Phase 2 Parcel"). In connection therewith, Owner shall deliver to City each of the following, which shall be in form and substance acceptable to Owner in its reasonable discretion: (1) a proposed parcel map or other instrument evidencing the Subdivision and creation of the Project Parcel and Phase 2 Parcel, (2) a proposed Reciprocal Maintenance and Use Agreement or other instrument granting Owner and its invitees access to and over and use of such portions of the Phase 2 Parcel and Phase 2 Project, and including such other terms, as may be reasonably required by City (the "Reciprocal Easement Agreement"), (3) a pro forma endorsement to City's title policy ensuring that the Regulatory Agreement shall remain a valid lien upon the Project Parcel, subject only to liens and encumbrances approved by City, along with any other pro forma endorsements City may require.

17. **Conveyances and Reconveyances.** City acknowledges that after the Subdivision and creation of the Project Parcel and Phase 2 Parcel, Owner intends to convey the Phase 2 Parcel to Elk Grove Pacific Associates III (the "Phase 2 Owner"). Prior to the conveyance of the Phase 2 Parcel to the Phase 2 Owner, Owner shall have delivered to City each of the following, which shall be in form and substance acceptable to City in its reasonable discretion: (i) proposed instruments evidencing the proposed conveyance of the Phase 2 Parcel to the Phase 2 Owner, and, (ii) if required by City, proposed execution-ready copies of partial release and reconveyance instruments releasing the Phase 2 Parcel from the liens and encumbrances of the Deed of Trust and City's Regulatory Agreement recorded against the Project Parcel in connection with the Loan. Upon receipt and approval of the foregoing, City shall release and reconvey, the Phase 2 Parcel from this Regulatory Agreement, City shall execute a partial release and reconveyance instrument releasing the Phase 2 Parcel from the liens and encumbrances of this Regulatory Agreement and Lender shall modify this Regulatory Agreement. In no event shall this Loan and the Phase 2 Loan at any time be cross-defaulted or cross-collateralized. In connection therewith, if required by City, City shall receive an endorsement to its title policy as described hereunder.

PROJECT OCCUPANCY AND RENTS

18. **Occupancy of Project.** Owner shall limit for the full term of this Regulatory Agreement the rental of Regulated Units to Qualifying Households according to the schedule contained in Exhibit B. The income levels and other qualifications of applicants shall be certified prior to initial occupancy and annually thereafter in conformance with the Final Management Plan and the City's rules governing income certification, as these rules may be amended from time to time.

The Project shall be owned, managed, and operated as a residential rental project comprised of two residential buildings and one community building together with facilities functionally related and subordinate thereto, in accordance with the applicable provisions of the Internal Revenue Code and applicable California law, as the same may be amended from time to time. All of the residential dwelling units in the Project will be similarly constructed and shall contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for a single person or family, including sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink. None of the residential dwelling units shall at any time be utilized on a transient basis. Neither the Project, nor any portion thereof shall ever be used as hotel, dormitory, fraternity house, sorority house, rooming house, hospital, nursing home, sanitarium, rest home, or trailer park or court.

At all times during the term of this Regulatory Agreement, Owner shall maintain a Reciprocal Maintenance and Use Agreement with Elk Grove Pacific Associates III, a California Limited Partnership, and its successors or assigns, for community amenities, in the form attached hereto as Exhibit E. Such community amenities shall include resident and guest parking, pool, children's play area, mail delivery facilities, community building, and property management offices and storage.

19. **Project Rents.** Rents for Regulated Units shall be limited to Qualifying Rents. If Owner proposes to rent a unit at a rent that is ten percent (10%) lower than the maximum Qualifying Rent for the unit (including the effect of any concessions), the City shall have the right to review and approve said lower rent. The Owner shall present to the City information upon which it bases the lower proposed rent and the City shall have five (5) business days to approve or disapprove said proposed rent. If the City disapproves the proposed rent, the City shall cite the minimum rent that can be charged. Within ten (10) business days, the City shall also provide documentation supporting that the rent is achievable in the sub-market based on similar properties and unit constraints (size, location, condition, amenities, etc.). The decision of the City shall be final.

20. **Lead-Based Paint.** Owner and its contractors and subcontractors shall not use lead-based paint in the construction, design, or maintenance of the Property. Owner shall insert this provision in all contracts and subcontracts for work performed on the Project which involves the application of paint.

21. **Condominium Conversion.** Owner shall not convert Regulated Units to condominium or cooperative ownership or sell condominium or cooperative conversion rights to

the Regulated Units during the term of this Regulatory Agreement, without the prior written consent of City, which consent may be withheld for any reason.

22. **Nondiscrimination.** Owner shall not discriminate or segregate in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of Project units on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions, or any other arbitrary basis. Owner shall include a statement in all advertisements, notices, and signs for the availability of Project units for rent to the effect that Owner is an Equal Housing Opportunity Provider, as that term is defined by State and Federal law.

23. **Operation and Management of Project.** Owner and each of Owner's agents shall diligently operate and manage the Property after completion in substantial conformance with the covenants contained in this Agreement, which shall run with the land and bind all successors-in-interest to the Property, and with the terms of the Final Management Plan as defined below.

A. **Management Entity.**

City and Owner agree that Owner shall manage the Property upon completion of construction. If Owner desires to seek the services of an outside property management firm to manage the Property, Owner may contract with an experienced property management firm subject to the prior written approval of City. The City shall have the right to review and approve the management entity chosen by Owner for the Property and the right to require a change in the management agent for reasonable cause at any time during the term of this Regulatory Agreement, provided, however, the City shall provide not less than sixty (60) days' notice and right to cure any defects in the management of the Property prior to requiring a change to the Property Manager, unless there is an immediate health and safety concern or evidence of fraudulent activity by the Property Manager. Any contracting of management services by Owner shall not relieve Owner of its primary responsibilities for proper performance of management duties.

Owner has contracted with, and City approves, USRG (California) Inc. ("Property Manager"), to manage the Property as evidenced by that certain Management Agreement dated of even date herewith, executed by Owner and Property Manager. The City shall have the right to review and approve any proposed amendments to Owner's contract with its management firm (other than changes mandated by the Tax Credit Allocation Committee and/or Internal Revenue Service regulations), any new management contracts, and any substantive changes in the Management Plan during the term of this Agreement, which approval shall not be unreasonably withheld. At least 30 days before any proposed amendment is executed, Owner must provide City with notice and a copy of proposed amendment for review and approval. Should City disapprove of the proposed amendment, then Owner and the Property Manager must revise the proposed amendment to the reasonable satisfaction of City. If the City does not disapprove the proposed amendment within thirty (30) calendar days, the City shall be deemed to approve said amendment, unless the City notifies Owner in writing that additional time for review is needed, in which case an extension shall be granted pursuant to the City's request.

B. Management Plan.

At least thirty (30) calendar days prior to the anticipated completion of construction of the Project, Owner shall submit to the City for review and approval which shall not be unreasonably withheld, a draft management plan for marketing and managing the Property. Prior to issuance of the final Certificate of Occupancy for the Project, Owner shall submit a Final Management Plan to the City for its review and approval, which shall not be unreasonably withheld. If the City has not responded to any submission of the Final Management Plan or management contract (including amendments) by Owner within fifteen (15) business days of receipt of such Plan or contract by the City, the Plan or contract (including amendments) shall be deemed approved by the City; provided, however, that each submission of a material amendment to the Final Management Plan triggers a new fifteen (15) business day period in which the City may review and approve such plan and amendment.

The City shall review and Owner shall update, if City deems necessary, the Management Plan at least once every three (3) years. The Final Management Plan shall be the plan addressing how the Property will be managed following construction and upon occupancy, and shall include, but not be limited to, provisions set forth in the Management Responsibilities. The City hereby approves the management plan previously submitted by Borrower as the initial Final Management Plan.

C. Management Responsibilities. The Owner shall perform and provide the following:

i. A major maintenance schedule, prepared by Owner and the Property Manager, which specifies maintenance work to be performed on a periodic basis over the estimated lifetime of the housing units on the Property. The annual schedule must be submitted to the City by March 31 of each calendar year and shall be consistent in content with any similar reports provided to other lenders and investors in the Property.

ii. Establishment of a replacement reserve account identifying the manner in which the maintenance schedule described in item C.i. above, and projected replacement activities will be funded from monthly project income. The schedule for deposits and withdrawals from the replacement reserve account shall be submitted to the City by March 31 of each calendar year and shall be consistent in content with any similar reports provided to other lenders and investors in the Property.

iii. Annual inspections of individual units to ensure continued compliance with state and local housing codes. Results of the inspections must be documented in a report, and copies may be requested by the City. The City may also independently schedule during a calendar year, one or more property inspections upon five (5) business days' advance written notice by City to Owner.

iv. Annual reporting to the City regarding compliance with the deferred maintenance schedule and the results, findings and any corrective measures taken or to be undertaken arising from the annual inspections of units.

v. Audited annual financial statements prepared by a certified public accountant, approved in advance, in writing, by City, which reflect the status of the reserve fund for maintenance and replacement activities. Copies of audited annual financial statements must be provided to the City within ninety (90) calendar days of the fiscal year-end date. The accountants acceptable to the Senior Lender and the Owner's tax credit investor shall be deemed acceptable to the City. Audited financial statements must demonstrate compliance with the formula for the Residual Cash Flow calculation as described in the Promissory Note. Copies of quarterly unaudited financial statements must be provided to the City within thirty (30) calendar days of the quarter-end date.

vi. Monthly financial and occupancy reporting, in a form to be approved by the City.

vii. Maintenance of outdoor landscaping, outdoor lighting, parking area paving, stops/curbs, striping, laundry room facilities, garbage and recycling receptacles, as well as overall cleanliness of Property.

viii. A marketing strategy to outline methods to be used to achieve full and continuing lease up of the housing units on the Property until Project stabilization and in conformance with any applicable state and federal affirmative fair housing marketing guidelines.

ix. A plan for certifying the eligibility of the households, including annual verification of tenant income and measures to take in the event a tenant exceeds the maximum income for a given unit.

x. A tenant selection and leasing process that implements best practices strategies, in compliance with applicable federal, California state, and local law, that ensures tenant stability and which maximizes the health, safety, welfare, and beneficial enjoyment of the Project. Such a leasing process includes, but is not limited to, the following:

a. Prospective tenants must be required to fill out an application form, verify income/employment, attend a private interview with Owner or a selected property management firm, consent to a credit check, and agree to abide by property management rules for Property.

b. Selected tenants must be given a set of "rules and regulations" for the Property, and

c. Leases with tenants must provide that non-compliance with building rules shall be an event of default on the lease and grounds for eviction.

xi. On-site management of the Property.

xii. The duties of the manager regarding operation of the Property.

xiii. A sample lease form.

Owner shall provide and maintain safe and sanitary rental housing units on the Property

and shall comply with all Federal, State, and local housing codes, licensing requirements, and other requirements regarding the condition of the Property and the operation of rental housing units in the City of Elk Grove.

Owner shall be specifically responsible, subject to its obligations herein, for all management functions with respect to the Property, including, without limitation, the selection of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The City shall have no responsibility over management of the Property.

In the event the Owner fails to comply with the forgoing management responsibilities set forth in this Section 21.C after thirty (30) days prior written notice to Owner, then the Senior Lender and the Investor Limited Partner shall have the right to cure such failure within thirty (30) calendar days after prior written notice from City to Senior Lender and Investor Limited Partner of such failure by Owner.

24. **Maintenance and Security.** Owner shall, at its own expense, maintain the Property in good condition, in good repair, and in a safe, sanitary, and habitable, living condition for the benefit of Project occupants. Owner shall not commit or permit any waste on or to the Property, and shall prevent and/or rectify any physical deterioration of the Property. Owner shall provide adequate ongoing security equipment and services for Project occupants. Owner shall maintain the Property in conformance with all applicable state, federal, and local laws, ordinances, codes, and regulations and the Final Management Plan; however, Owner's maintenance obligations shall not be limited only to the standards contained in these laws or the Final Management Plan. In the event the Owner fails to maintain the Property in accordance with this Section 24 after thirty (30) calendar days prior written notice to Owner, the Senior Lender and the Investor Limited Partner shall have the right to cure such failure within thirty (30) calendar days after prior written notice from City to Senior Lender and Investor Limited Partner of such failure by Owner.

In the event that the Owner, Senior Lender, and Investor Limited Partner do not cure such failure as noted herein, the City or its agent may, but shall be under no obligation to, enter upon the Property, make such repairs or replacements as are deemed necessary in City's reasonable discretion, and provide for payment thereof. Any amount advanced by City to make such repairs, together with interest thereon from the date of such advance at the same rate of interest as specified in the Note for the Project (unless payment of such an interest rate would be contrary to applicable law, in which case interest shall accrue at the rate then allowed by applicable law), shall become an additional obligation of Owner to City and shall be secured by the Deed of Trust.

Nothing contained in this Section shall be interpreted to place any restriction or limitation on the City's right to take such actions as it deems necessary or proper to protect the health and safety of the public in the proper exercise of the City's authority under federal, state, and local laws.

25. **Unit Vacancies.** Owner shall use its best efforts to fill vacancies in Regulated Units as quickly as possible.

26. **Inspection and Records.** Owner shall maintain records which clearly document Owner's performance of its obligations to operate the Property under the terms of this Regulatory Agreement. Owner shall submit any records to the City within ten (10) business days of City's request. Owner shall permit City to enter and inspect the Property for compliance with obligations under this Regulatory Agreement upon five (5) days advance written notice of such visit by City to Owner or Owner's Property Manager and to tenants of any inspected Project units, subject to the provisions of the lease regarding inspection and entry rights, a copy of which Owner must provide to City upon request.

27. **Annual Report.** Owner shall submit an annual report to City, which shall include, at a minimum for each Regulated Unit, the initial and current rental rates and the income and household size of the occupants at the time such occupants initially take occupancy. The income information required under this report shall be supplied by the tenant in a certified statement on the Tenant Income Certification collected from the tenants in compliance with all applicable rules and regulations of the California Tax Credit Allocation Committee. City may require additional information to be included in the annual report. Owner shall provide City a copy of the annual reports submitted to the California Tax Credit Allocation Committee and California Debt Limit Allocation Committee.

28. **Reporting Violations.** Failure to comply with the reporting requirements as specified in Sections 23 and 27 of this Agreement shall result in liquidated damages of FIVE HUNDRED DOLLARS (\$500) per violation per month, provided that Owner has failed to cure the non-compliance within thirty (30) days from written notice by the City. This provision shall remain in full force and effect even if the parties fail to expressly initial where indicated below.

Initials: Owner _____, City Manager _____.

29. **Fees, Taxes, and Other Levies.** Owner shall be responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property, and shall pay such charges prior to delinquency. However, Owner shall not be required to pay any such charge as long as (a) the legality thereof is being contested in good faith and by appropriate proceedings, and (b) Owner maintains reserves adequate to pay any contested liabilities.

30. **Insurance Coverage.** Owner shall cause to have in full force and effect during the term of this Regulatory Agreement insurance coverage as required in Exhibit C.

31. **Property Damage or Destruction.** Subject to the terms and conditions of the Senior Deed of Trust and Subordination Agreement, if any building or improvements erected by Owner on the Property is damaged or destroyed, Owner shall, at its own cost and expense, repair or restore the Property consistent with the original Plans and Specifications for the Project. Such work shall be commenced within thirty (30) calendar days, or up to one hundred eighty (180) calendar days with written approval of City, after the damage or loss occurs and shall be completed within three hundred sixty (360) calendar days thereafter. All insurance proceeds

collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if insurance proceeds are insufficient for such purpose, Owner shall make up the deficiency.

GENERAL PROVISIONS

32. **Asset Management and Compliance Monitoring Fee.** Owner shall make to City an annual asset management and compliance monitoring fee payment in the amount of one thousand dollars (\$1,000), subject to the availability of Residual Cash Flow, as defined in the Note, and prior to any payments to Owner or its general partners. Fee payment shall be due annually within ninety (90) days of the end of the Borrower's Fiscal Year. Such fee shall not be considered a Loan payment and shall not reduce principal or interest on the Loan.

33. **Transfer and Encumbrance of Property.** Until the Note is paid in full, transfer of the Property and/or Project shall not occur except as permitted by the Deed of Trust. Thereafter, the Owner shall not transfer the Project, in whole or in part, without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed if the following conditions are satisfied: (A) the receipt by the City of evidence acceptable to the City that (1) the Owner shall not be in default hereunder or the transferee undertakes to cure any defaults of the Owner to the reasonable satisfaction of the City; (2) the continued operation of the Project shall comply with the provisions of this Regulatory Agreement; (3) either (a) the transferee and/or its Property Manager has at least three (3) years' experience in the ownership, operation, and management of similar size rental housing projects, and at least five (5) years' experience in the ownership, operation and management of rental housing projects containing below-market-rate units, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or local government requirements applicable to such projects, or (b) the transferee agrees to retain a property management firm with the experience and record described in subclause (a) above, or (c) the transferring Owner or its management company will continue to manage the Project, or another management company reasonably acceptable to the City will manage, for at least one (1) year following such transfer and, if applicable, during such period the transferring Owner or its management company will provide training to the transferee and its manager in the responsibilities relating to the Regulated Units; and (4) the person or entity that is to acquire the Project does not have pending against it, and does not have a history of significant and material building code violations or complaints concerning the maintenance, upkeep, operation, and Regulatory Agreement compliance of any of its projects as identified by any local, state or federal regulatory agencies; (B) the execution by the transferee of any document reasonably requested by the City to evidence the assumption of the Owner's obligations under this Regulatory Agreement.

34. **Default and Remedies.** In the event of any breach or violation of any agreement, obligation, or warranty under this Regulatory Agreement, City shall give written notice to Owner and its Investor Limited Partner by specifying: (a) the nature of the breach or violation, (b) the action required to cure the breach or violation, if an action to cure is possible, and (c) a date, which shall not be less than ninety (90) calendar days from the mailing of the notice, by which such action to cure must be taken, if an action to cure is possible. If Owner fails to cure the breach or violation within the timeframe specified in the notice, or if a cure is not possible, City may proceed with any of the following remedies:

A. Bring an action for equitable relief seeking the specific performance by Owner of the terms and conditions of this Regulatory Agreement, and/or enjoining, abating, or preventing any violation of said terms and conditions, and/or seeking declaratory relief;

B. Enter upon, take possession of, and manage the Property, either in person, by agent, or by a receiver appointed by a court, and collect any rents, income, deposits, or reserves and apply them to operate the Property, and continue in possession until such time as City determines that Owner is in a position to operate the Property in compliance with this Regulatory Agreement;

C. After notice provided for herein, make such repairs or replacements to the Property as are necessary and provide for payment thereof; or

D. For violations of Owner's obligations with respect to occupancy restrictions, Project maintenance, and unit vacancies, there shall be imposed, as liquidated damages, a charge upon Owner in an amount of ONE HUNDRED DOLLARS (\$100) per day for each Project unit that is not operated in compliance with this Regulatory Agreement commencing after the expiration of any applicable notice and cure period. The parties to this Regulatory Agreement expressly agree that this charge of ONE HUNDRED DOLLARS (\$100) per day is reasonable under the circumstances existing at the time of this Regulatory Agreement was entered into and represents a reasonable attempt by the parties to estimate the damages to be suffered by the City in the event of Owner's breach; these damages include, but are not limited to, the City's loss of use of funds that were loaned to Owner pursuant to the Loan Documents, including this Regulatory Agreement, and that could have been used to support other projects but for City's commitment to fund Owner's Project pursuant to the Loan Documents. This provision shall remain in full force and effect even if the parties fail to expressly initial where indicated below.

Initials: Owner _____, City Manager _____.

E. For violations of Owner's obligations with respect to Project rents, there shall be imposed as liquidated damages, a charge upon Owner in an amount equal to three (3) times the actual amount Owner has collected from any Qualifying Household in excess of the Qualifying Rent. The parties to this Regulatory Agreement expressly agree that this charge of three (3) times the actual amount Owner has collected from any Qualifying Household in excess of the Qualifying Rent is reasonable under the circumstances existing at the time of this Regulatory Agreement was entered into and represents a reasonable attempt by the parties to estimate the damages to be suffered by the City in the event of Owner's breach; these damages include, but are not limited to, the City's loss of affordable housing opportunities for Qualifying Household(s), and the City's loss of use of funds that were loaned to Owner pursuant to the Loan Documents, including this Regulatory Agreement, and that could have been used to support other projects but for City's commitment to fund Owner's Project pursuant to the Loan Documents. This provision shall remain in full force and effect even if the parties fail to expressly initial where indicated below.

Initials: Owner _____, City Manager _____.

- F. Pursue any other remedy allowed at law or in equity.

The parties agree that the sums and formulas designated herein as liquidated damages represent a reasonable approximation of the damages City is likely to suffer from violations of the respective terms. Owner agrees to pay in full any accrued liquidated damages to City within ten (10) business days of a written demand by City for such payment.

35. **Non-Liability of Officials, Employees, and Agents.** No member, official, director, employee, or agent of City shall be personally liable to Owner or third party beneficiaries for any obligation created under the terms of this Regulatory Agreement.

36. **Indemnity.** Notwithstanding the insurance coverage required herein, Owner, its successors, assigns and heirs shall defend, indemnify and hold City, its members, officials, directors, employees, and agents, harmless against any losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorney's fees) which City may incur as a result of (a) Owner's failure to reasonably perform any material obligations as required by this Regulatory Agreement; (b) a failure of any of Owner's representations or warranties under this Regulatory Agreement to be true and complete in any material respect; (c) any material breach, act or omission by Owner, management agent, Owner's contractors, subcontractors, or suppliers with respect to the Project or the Property, and/or (d) any claim related to the Project or Property, except if the loss is caused by the sole negligence or willful misconduct of the City. Owner shall pay immediately upon City's demand any amounts owing under this indemnity. The duty of the Owner to indemnify includes the duty to defend City in any court action, administrative action, or other proceeding brought by any third party arising from the Project or the Property. Owner's duty to indemnify City shall survive the term of this Regulatory Agreement.

37. **Governing Law.** This Regulatory Agreement shall be interpreted under and governed by the laws of the State of California, except for those provisions preempted by federal law. However, the laws of the State of California shall not be applied to the extent that they would require or allow the court to use the laws of another state or jurisdiction. Owner agrees that all actions or proceedings arising in connection with this Regulatory Agreement shall be tried and litigated only in the state and federal courts located in the State of California, except that City, in its sole discretion, may elect that all such actions or proceedings be tried and litigated in the County of Sacramento or the United States District Court for the Eastern District of California.

38. **Regulatory Agreement Controls.** In the event that any provisions of this Regulatory Agreement and the Loan Agreement conflict, the terms of the Regulatory Agreement shall control.

39. **Attorneys' Fees and Costs.** In the event that a legal or administrative action is brought to interpret or enforce the terms of this Regulatory Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

40. **Time.** Time is of the essence in this Regulatory Agreement.

41. **Consents and Approvals.** Any consent or approval required under the Regulatory Agreement shall not be unreasonably withheld.

42. **Notices, Demands, and Communications.** Formal notices, demands, and communications between Owner and City shall be given by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Owner and City as set forth below, or if any such office is relocated, to the new address specified by the relocated party. A copy of any written notice sent to Borrower shall be sent to Wells Fargo Affordable Housing Community Development Corporation as follows:

LENDER/CITY: ATTN: City Manager
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, California 95758

WITH A COPY TO: ATTN: City Attorney
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, California 95758

BORROWER/OWNER: ATTN: Caleb Roope
Elk Grove Pacific Associates II,
a California Limited Partnership
430 East State Street, Suite 100
Eagle, ID 83616

WITH COPIES TO: ATTN: Mike Kelley
Kelley Ventures LLC
555 Capitol Mall, Suite 410
Sacramento, CA 95816

ATTN: Mark Wiese
PacH Affordable Holdings, LLC
2115 J Street, Suite 201
Sacramento, CA 95816

ATTN: David Cohen
Katten Muchin Rosenman LLC
2029 Century Park East, Suite 2600
Los Angeles, CA 90067

ATTN: Director of Tax Credit Asset
Management
Wells Fargo Affordable Housing Community
Development Corporation
301 South College Street, MAC D1053-170
Charlotte, NC 28288

ATTN: Craig A. de Ridder, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street NW
Washington, DC 20037

SENIOR LENDER:

If notice occurs during the construction term,
send to:

ATTN: Mary Hodge
Wells Fargo Bank, National Association
Community Lending and Investment
1300 S.W. Fifth Avenue, 12th Floor
MAC P6101-121
Portland, Oregon 97201
Loan No. 1017238

If notice occurs past the construction term, send
to:

Rabobank, N.A.
618 W Main Street
Visalia, CA 93291

If the recipient refuses or rejects delivery, notice is deemed complete as of the date on which the Notice is so refused or rejected, as conclusively established by the records of the United States Postal Service or such express courier service.

43. **Binding upon Successors.** All provisions of this Regulatory Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of Owner and City, and shall run with the land for the full term of this Regulatory Agreement. Any successor-in-interest to Owner and any purchaser or transferee of the Property shall be subject to all of the duties and obligations imposed on Owner under this Regulatory Agreement for the full term of this Regulatory Agreement. The term "Owner" as used in this Regulatory Agreement shall include all such assigns, successors-in-interest, and transferees.

This provision shall apply regardless of any assignment, payment, prepayment, expiration, extinguishment of the Loan or Note, any reconveyance of the Deed of Trust, or any conveyance or transfer of the Property.

44. **Relationship of Parties.** The relationship of Owner and City for this Project during the term of this Regulatory Agreement shall not be construed as a joint venture, equity venture, or partnership. City neither undertakes nor assumes any responsibility or duty to Owner or to any third party with respect to the operation of the Property or the actions of Owner. Except as City may specify in writing, Owner shall have no authority to act as an agent of City or to bind City to any obligation.

45. **Waiver.** Any waiver by City of any obligation in this Regulatory Agreement must be in writing. No waiver will be implied from any delay or failure by City to take action on any breach or default of Owner or to pursue any remedy allowed under this Regulatory Agreement or applicable law. Any extension of time granted to Owner to perform any obligation under this Regulatory Agreement shall not operate as a waiver or release from any of its obligations under this Regulatory Agreement. Consent by City to any act or omission by Owner shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for City's written consent to future waivers.

46. **Other Agreements.** Owner represents that it has not entered into any agreements that would restrict or compromise its ability to comply with the terms of this Regulatory Agreement. Owner shall not enter into any agreements that are inconsistent with the terms of this Regulatory Agreement without a written waiver by City, which shall not be unreasonably withheld.

47. **Amendments and Modifications.** Any amendments or modifications to this Regulatory Agreement must be in writing, and shall be effective only if executed by both Owner and City.

48. **Severability.** Every provision of this Regulatory Agreement is intended to be severable. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired.

49. **Participation in Section 8 Program.** During the term of this Agreement, Owner shall not discriminate against tenants who qualify under the Housing Choice Voucher program, formerly referred to as the Section 8 program ("HCV" or "Section 8"), administered by the Sacramento Housing and Redevelopment Agency, or any successors thereto (the "Agency"). The rents for units rented to HCV tenants shall be as determined by the Agency, based on the payment standard.

50. **Cooperation with City-supported Homelessness Programs.** During the term of this Agreement, Owner shall restrict two (2) extremely low-income (30%) units, one two-bedroom and one three-bedroom unless otherwise approved by City, for occupancy by households exiting one of the City's approved transitional housing projects. In the event of a vacancy in one or more of the restricted units, Property Manager shall contact City for a tenant referral. If no qualified tenant is recommended by the City within sixty (60) days of notice of vacancy provided by Property Manager, Owner may fill the unit using their standard practice as described in the Management Plan.

At the City's request, in filling any vacancies Owner shall use commercially reasonable efforts to provide preference to homeless households referred by the City or one of its partner agencies, including by placing such households at the top of the waitlist, if Project maintains a waitlist, but in no event shall Owner be obligated by this preference if it would violate federal or state housing, equal protection, or similar laws. Nothing herein shall be interpreted as requiring Owner to dispense with its standard tenant screening process as described in the Management Plan in effect at the time.

51. **Survival of Agreement.** Subject to the terms of the Subordination Agreement, the Regulatory Agreement shall remain in full force and effect against the Project, even in the event of foreclosure by the Senior Lender, or full payment of the Loan and Note.

52. **Survival of Deed of Trust.** Except in the event of a foreclosure or acceptance of a deed-in-lieu of foreclosure by the Senior Lender, in event of full payment of the Loan and Note, the Deed of Trust shall remain against the Property to the extent necessary to secure the obligations of this Regulatory Agreement.

53. **Counterparts.** This Agreement and all other agreements executed pursuant to this Agreement may be executed in counterpart originals, each of which shall be deemed an original, but all of which, together shall constitute one and the same instrument.

54. **Lender's Signatory Authority.** Any provision of the Loan Documents, including this Agreement, requiring the signature, consent, authorizing waiver, and/or approval of the Lender shall mean the signature of the City Manager or his/her designee.

55. **Agreement and Acknowledgement of Agreement.** City and Owner acknowledge and agree that this Agreement has been negotiated at arm's length, that each party has been represented by independent counsel and/or has had an opportunity to consult with and be represented by independent counsel, that this Agreement is deemed to be drafted by both parties, that no one party shall be construed as the drafter of this Agreement, and that any rule of construction that ambiguities are to be construed against the drafter shall not apply in the interpretation or construction of this Agreement.

56. **Authority.** The person(s) signing this Regulatory Agreement hereby represents and warrants that he/she is fully authorized to sign this Regulatory Agreement on behalf of their respective party and to legally bind such party to the performance of its obligations hereunder.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Regulatory Agreement as of the date first above written.

CITY:

CITY OF ELK GROVE,
a California municipal corporation

By: _____
Laura S. Gill
City Manager

Approved as to form:

By: _____
Jonathan P. Hobbs
City Attorney

Attest:

By: _____
Jason Lindgren
City Clerk

ALL SIGNATURES MUST BE NOTARIZED

OWNER:

ELK GROVE PACIFIC ASSOCIATES II,
a California limited partnership

By: PacH Affordable Holdings, LLC,
a California limited liability company
Its: Managing General Partner

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation
its Sole Member and Manager

By: _____
Mark A. Wiese, President

By: TPC Holdings IV, LLC,
an Idaho limited liability company doing business in California as TPC Idaho Holdings
IV, LLC
Its: Co-Administrative General Partner

By: _____
Name: Caleb Roope
Its: Manager

By: Kelley Ventures, LLC,
a California limited liability company
Its: Co-Administrative General Partner

By: _____
Name: Mike Kelley
Its: Manager

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODES 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODES 1189



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County of _____)

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personally appeared _____,
Name(s) of Signer(s)

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WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODES 1189



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State of California)
County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE§ 1189



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State of California)
County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

EXHIBIT A

Legal Description

REAL PROPERTY IN THE CITY OF ELK GROVE, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1 AS SHOWN ON THE PARCEL MAP ENTITLED "PARCEL MAP NO. 11-023 JONE'S PARCEL MAP" FILED FOR RECORD ON DECEMBER 20, 2011 AT THE OFFICE OF THE SACRAMENTO COUNTY RECORDER IN BOOK 217 OF PARCEL MAPS, PAGE 17.

APN: 115-0162-033

EXHIBIT B

Bow Street Phase I Regulated Units

PROJECT UNIT MIX AND AFFORDABILITY

Maximum Household Income as a Percentage of Area Median Income (AMI)	ONE BEDROOM No. of Units	TWO BEDROOM No. of Units	THREE BEDROOM No. of Units	Total
30% or lower	1	4	2	7
45% or lower	6	11	5	22
50% or lower	4	8	5	17
60% or lower	1	1	1	3
Unrestricted	-	1	-	1
TOTAL	12	25	13	50

The Project includes one (1) unit that is not rent-restricted. The unrestricted unit must be occupied by either the full-time property manager or the maintenance supervisor.

The Project must include a community building with computer room and exercise equipment, swimming pool, play area, bike racks, benches, and covered and lighted parking.

EXHIBIT C

Insurance Coverage Requirements

- A. Prior to commencement of any work on the Project and continuing until issuance of a Certificate of Occupancy, Owner and all contractors working on behalf of Owner shall provide to the City proof of, and maintain in full force and effect at all times until the issuance of a Certificate of Occupancy, at its sole cost and expense, policies of insurance as set forth herein:
1. General Liability:
 - a. Comprehensive general liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability and product and completed operations liability.
 - b. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
 - c. Claims-made coverage is not acceptable.
 - d. The limits of liability shall not be less than:

Each occurrence:	Two Million Dollars (\$2,000,000)
Products & Completed Operations:	Two Million Dollars (\$2,000,000)
Personal & Advertising Injury:	Two Million Dollars (\$2,000,000)
 2. Umbrella Liability Policy
 - a. The policy must follow form of the underlying general liability policies.
 - b. The limit of liability shall not be less than \$5,000,000 per occurrence.
 3. Automobile Liability:
 - a. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles.
 - b. Coverage shall be at least as broad as Insurance Services Office Automobile Liability coverage form CA 0001, symbol 1 (any auto).
 - c. The limits of liability per accident shall not be less than:

Combined Single Limit	One Million Dollars (\$1,000,000)
-----------------------	-----------------------------------
 - d. If general liability coverage, as required above, is provided by the Commercial General Liability form, the automobile liability policy shall include an endorsement providing automobile contractual liability.
 4. Worker's Compensation

- a. Worker's Compensation Insurance, with coverage as required by the State of California (unless the Owner is a qualified self-insurer with the State of California), and Employers Liability coverage. The Owner shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in Exhibit D.
- b. Employer's Liability Coverage shall not be less than the statutory requirements.
- c. If an injury occurs to any employee of the Owner for which the employee or his dependents, in the event of his death, may be entitled to compensation from the City under the provisions of the Acts, for which compensation is claimed from the City, there will be retained out of the sums due the Owner under this Agreement, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to the Owner. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by the Owner.

5. Builder's Risk

- a. Builder's Risk "Special Form" Completed Value upon the entire project which is the subject of this Agreement, including completed work and work in progress.
- b. The policy or policies of insurance shall name the Owner and the City, its officials, officers, employees, agents, and volunteers as insureds as loss payees as their respective interests may appear.
- c. The Policy shall include an insurer's waiver of subrogation rights in favor of the Owner and the City, its officials, officers, employees, agents, and volunteers.
- d. Such insurance may have a deductible clause, but the amount of the deductible shall be subject to the approval of the City.
- e. In no event shall the Builder's Risk Coverage be less than the total value of the Agreement.
- f. Owner shall comply with all insurance requirements and shall not permit any condition to exist on the Property that would invalidate any part of any insurance coverage that this Instrument requires Owner to maintain.
- g. In the event of loss, Owner shall give immediate written notice to the insurance carrier and to City.
- h. The policy's deductible shall not exceed Fifty Thousand Dollars (\$50,000).

B. Upon issuance of a Certificate of Occupancy and continuing until the maturity date of the Loan, Owner shall provide to the City proof of, and maintain in full force and effect

at all times until the maturity date of the Loan, at its sole cost and expense, policies of insurance as set forth herein:

1. General Liability:

- a. Comprehensive general liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability and product and completed operations liability.
- b. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
- c. Claims-made coverage is not acceptable.
- d. The limits of liability shall not be less than:
 - Each occurrence: Two Million Dollars (\$2,000,000)
 - Products & Completed Operations: Two Million Dollars (\$2,000,000)
 - Personal & Advertising Injury: Two Million Dollars (\$2,000,000)

2. Umbrella Liability Policy

- a. The policy must follow form of the underlying general liability policies.
- b. The limit of liability shall not be less than \$5,000,000 per occurrence.

3. Automobile Liability:

- a. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles.
- b. Coverage shall be at least as broad as Insurance Services Office Automobile Liability coverage form CA 0001, symbols 8 and 9 (hired and non-owned autos).
- c. The limits of liability per accident shall not be less than:
 - Combined Single Limit One Million Dollars (\$1,000,000)
- d. If general liability coverage, as required above, is provided by the Commercial General Liability form, the automobile liability policy shall include an endorsement providing automobile contractual liability.

4. Worker's Compensation

- a. Worker's Compensation Insurance, with coverage as required by the State of California (unless the Owner is a qualified self-insurer with the State of California), and Employers Liability coverage. The Owner shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in Exhibit D.

- b. Employer's Liability Coverage shall not be less than the statutory requirements.
- c. If an injury occurs to any employee of the Owner for which the employee or his dependents, in the event of his death, may be entitled to compensation from the City under the provisions of the Acts, for which compensation is claimed from the City, there will be retained out of the sums due the Owner under this Agreement, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to the Owner. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by the Owner.
- d. Should the Owner be exempt from California Labor Code §3700, Owner shall execute the "Owner Release of Liability for Worker's Compensation Coverage" on a form provided by the City in lieu of providing proof of Worker's Compensation Insurance.

5. Hazard/Property Insurance

- a. Property/Hazard insurance on the Project, including improvements and personal property now existing or hereafter located on the Project, insured against all risks of loss including but not limited to fire, windstorm, vandalism, malicious mischief and allied perils, general boiler and machinery coverage, and business interruption including loss of rental value insurance for the Project with extra expense insurance.
- b. If City so requires, such insurance shall also include sinkhole insurance, mine subsidence insurance, earthquake insurance, and, if the Project does not conform to applicable zoning or land use laws, building ordinance or law coverage. In the event any updated reports or other documentation are reasonably required by City in order to determine whether such additional insurance is necessary or prudent, Owner shall pay for all such documentation at its sole cost and expense.
- c. If any of the Project is located in an area identified by the Federal Emergency Management Agency (or any successor to that agency) as an area having special flood hazards, Owner shall insure such improvements against loss by flood.
- d. Owner acknowledges and agrees that City's insurance requirements may change from time to time throughout the term of the Indebtedness.
- e. The policy shall be written on a full replacement value basis and shall name City as loss payee as its interest may appear. The full replacement value of the Project to be insured shall be determined by the company issuing the policy at the time the policy is initially obtained. Not more frequently than once every two (2) years, either the operator or the City shall have the right to notify the

other party that it elects to have the replacement value re-determined by the insurance company.

- f. Owner shall comply with all insurance requirements and shall not permit any condition to exist on the Project that would invalidate any part of any insurance coverage that this Instrument requires Owner to maintain.
- g. In the event of loss, Owner shall give immediate written notice to the insurance carrier and to City.
- h. The policy's deductible shall not exceed Fifty Thousand Dollars (\$50,000).

C. Prior to commencement of any work on the Project and continuing until the maturity date of the Loan, Owner and all contractors working on behalf of Owner shall abide by the following:

- 1. All general and auto liability policies required by this Agreement shall contain the following provisions and endorsements:
 - a. The City, its officers, officials, employees, agents and volunteers shall be covered and specifically named as additional insured as respects liability arising out of activities performed by or on behalf of the Owner, products and completed operations of the Owner, premises owned, occupied, or used by the Owner, or automobiles owned, leased, hired, or borrowed by the Owner on a separate endorsement acceptable to the Risk Manager.
 - b. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees, and volunteers for losses arising from work performed by the Owner.
 - c. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents or volunteers.
 - d. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Owner's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss or judgment.
 - e. Any failure to comply with reporting or other provisions of the policies on the part of the Owner, including breaches of warranties, shall not affect Owner's requirement to provide coverage to the City, its officers, officials, employees, agents or volunteers.
- 2. Acceptability of Insurers: Insurance is to be placed with insurers with a **Bests' rating of no less than A:VII**.
- 3. Any deductibles, aggregate limits, pending claims or lawsuits that may diminish the aggregate limits, or self-insured retention(s), must be declared to, and approved by, the City.

4. The Owner shall furnish the City with certificates of insurance and original endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this Agreement. At any time at the written request of the City, Owner agrees to furnish a duplicate original or certified copy of each required policy including the declaration pages, conditions, provisions, endorsements, and exclusions.
5. The City, at its discretion, may increase the amounts and types of insurance coverage required hereunder at any time during the term of the Agreement by giving 30 days written notice.
6. The Owner shall serve the City notice, in writing by certified mail, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement that concern the suspension, voidance, cancellation, termination, reduction in coverage or limits, non-renewal, or material changes of coverage proposed or otherwise.
7. If the Owner fails to procure or maintain insurance as required by this section, and any Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due the Owner under the Agreement.
8. Failure of the City to obtain such insurance shall in no way relieve the Owner from any of its responsibilities under the Agreement.
9. The making of progress payments to the Owner shall not be construed as relieving the Owner or its agents of responsibility for loss or direct physical loss, damage, or destruction occurring prior to final acceptance by the City.
10. The failure of the City to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at any time during the term of the contract.
11. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Owner are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Owner under the Contract.

EXHIBIT D
Certificate of Compliance with Labor Code § 3700

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I have complied or will comply with such provisions before commencing the performance of the work of this Agreement. (Cal. Labor Code §§1860, 1861.)

OWNER

ELK GROVE PACIFIC ASSOCIATES II,
a California limited partnership

By: PacH Affordable Holdings, LLC,
a California limited liability company

Its: Managing General Partner

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation
its Sole Member and Manager

By: _____
Mark A. Wiese, President

By: TPC Holdings IV, LLC,
an Idaho limited liability company doing business in California as TPC Idaho Holdings
IV, LLC

Its: Co-Administrative General Partner

By: _____
Name: Caleb Roope
Its: Manager

By: Kelley Ventures, LLC,
a California limited liability company

Its: Co-Administrative General Partner

By: _____
Name: Mike Kelley
Its: Manager

EXHIBIT E
Reciprocal Maintenance and Use Agreement

Recording requested by:

Elk Grove Pacific Associates II,
A California limited partnership

When recorded mail to:

Elk Grove Pacific Associates II
430 E. State Street, Ste.100
Eagle, ID 83616
Attn: Caleb Roope

Space above this line for recorder's use

RECIPROCAL MAINTENANCE AND USE AGREEMENT

This Reciprocal Maintenance and Use Agreement is entered into as of July ____, 2017 by and between the Elk Grove Pacific Associates II, a California Limited Partnership (“EGPA II”) and Elk Grove Pacific Associates III, a California Limited Partnership (“EGPA III” or, with EGPA II, sometimes hereinafter collectively referred to as “Owners” and individually as “Owner”) as follows:

RECITALS:

WHEREAS:

- A. EGPA II is the fee simple owner of certain real estate located in the City of Elk Grove, Sacramento County, California, the legal description of which is attached hereto as Exhibit A and incorporated herein by reference (“EGPA II Property”).
- B. EGPA III is the fee simple owner of certain real estate located in the City of Elk Grove, Sacramento County, California, situated adjacent to EGPA II Property, the legal description of which is attached hereto as Exhibit B, and incorporated herein by reference (“EGPA III Property” or, with the EGPA III Property, sometimes collectively “Parcels” and individually “Parcel”).
- C. EGPA II shall develop and build a 50-unit affordable multifamily residential development (the “EGPA II Development”) on the EGPA II Property. EGPA III shall develop and build a 48-unit affordable multifamily residential development (the “EGPA III Development”) on the EGPA III Property.
- D. The Parcels are intended to be operated with separate ownership as described above but with sharing of certain common amenities and maintenance and operational expenses as hereinafter described and subject to the conditions set forth hereinbelow.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties hereto hereby agree as follows:

- 1. Recitals. The Owners agree that the Recitals stated above are true and correct and form a material part of this Agreement upon which the Owners have relied. The Recitals set forth above are hereby incorporated as if fully set forth herein.

2. Roadway Access and Parking Easements. Each Parcel hereby grants, for the benefit of each of the other Parcels, and to be appurtenant to each Parcel and for the use and benefit of their respective tenants, officers, employees, agents, lessees, guests, licensees and invitees, a perpetual non-exclusive easement for vehicular, multimodal and pedestrian use for ingress and egress to and from each Parcel, to and from the public roadways contiguous to any Parcel, to and from the Common Facilities (as hereinafter defined) and for parking, on, over, across and upon that portion of each Parcel from time to time on which are located paved roadways, driveways, walkways and parking lots.
3. Common Facilities Easement. Each Parcel hereby grants, for the benefit of the other Parcel, and to be appurtenant to each Parcel, and for the use and benefit of their respective tenants, officers, employees, agents, lessees, guests, licensees and invitees, a perpetual non-exclusive easement to use and enjoy all common-area amenities on any Parcel including, without limitation, swimming pools, clubhouses (which may include, without limitation, offices, laundry facilities, computer labs, exercise rooms, recreation/meeting rooms, maintenance areas & kitchens), playgrounds, BBQ/picnic areas, dog parks, community gardens, employee units and other common facilities, walkways and common open areas which presently exist or may hereafter exist on any Parcel (all of such facilities and areas being collectively referred to as the “Common Facilities”) on the same terms and conditions that the same are available for use by the tenants, officers, employees, agents and invitees of the owner of the Parcel upon which such Common Facilities are located.
4. Utility, Fire and Drainage Easements. Utility service line facilities now or may hereafter exist on a Parcel that will provide utility service to the other Parcel, including, without limitation, natural gas, electric, cable, domestic and fire protection water (including fire hydrants), sanitary and storm sewer, fire alarm systems and monitoring lines and panels and telecommunications facilities (the “Utility Facilities”). Each Parcel hereby grants, for the benefit of the other Parcel, and to be appurtenant to each Parcel, and for the benefit of their respective tenants, officers, employees, agents, lessees, guests and invitees, a perpetual non-exclusive easement to use, maintain and enjoy the Utility Facilities now or anytime hereafter situated on any Parcel on the same terms and conditions that such Utility Facilities are available for use by the owner of the Parcel upon which such Utility Facilities are located, and its tenants, officers, employees, agents and invitees. Notwithstanding the foregoing, an Owner may not, following initial construction of both Developments, install additional Utility Facilities (a “Future Utility Facility”) on the other Owner’s Parcel without the other Owner’s written consent, which consent shall not be unreasonably withheld or delayed, and the Owner installing, maintaining or replacing any such Future Utility Facility shall repair any damage caused thereby and, to the extent practicable, return the other Owner’s Parcel to the state that existed prior to such installation, maintenance, repair or replacement.

It is understood and agreed that grades, grading and drainage may be changed on the Parcels in connection with construction of the EGPA II Development and the EGPA III Development. Each Parcel is hereby burdened with the obligation to accept drainage water from the other Parcel and each Parcel is hereby granted the right to install and maintain drainage and grading improvements on its Parcel consistent with construction plans approved by the City of Elk Grove.

5. Cost, Maintenance, Operation and Repair Obligations and Rights. The Owner of each Parcel or its designee shall be responsible for operating, maintaining and repairing the landscaping, improvement, roads, Common Facilities and Utility Facilities located on its respective Parcel and shall keep their Parcel well maintained, in good repair and condition and reasonably free of trash and debris. Notwithstanding the foregoing, to the extent that Utility Facilities located on one Owner's Parcel benefit only the other Owner's Parcel, such Utility Facilities shall be operated, maintained and repaired by the benefitted Owner. Each Owner shall have the right to establish reasonable rules regarding the use of the Common Facilities on its Parcel.

Subject to the terms below regarding the Shared Expenses, all costs of operation, maintenance and repair of the EGPA II Property and Development shall be borne exclusively by EGPA II, and all costs of operation, maintenance and repair of the EGPA III Property and Development shall be borne exclusively by EGPA III. All utilities for the EGPA II Property and all utilities for the EGPA III Property shall be separately metered.

Notwithstanding the foregoing, each owner shall pay its proportionate share of the cost of operating, maintaining, restoring and using Common Facilities and Utility Facilities used in common by both Parcels located on the Parcels (the "Shared Expenses"). Such proportionate share shall be based on the number of residential rental units anticipated to be on each Parcel as of execution of this Agreement, therefore, 51% to EGPA II and 49% to EGPA III (the "Prorata Share"). On or before August 1st of each year commencing the first August 1st following the developments on both Parcels receiving at least some certificates of occupancy, the apartment management company managing the developments shall prepare and circulate to Owners a budget setting forth anticipated Shared Expenses for the following year (a "Shared Expenses Budget"). On or before September 1st of each year, Owners shall each approve the relevant Shared Expenses Budget in writing. If the Owners cannot agree on a Shared Expenses Budget, the dispute shall be resolved by binding arbitration in Elk Grove, California before an arbitrator selected from a list maintained by the Judicial Arbitration and Mediation Services ("JAMS"). If the matter must proceed to arbitration, such dispute shall be decided by an arbitrator to be chosen by the Owners or, if the parties cannot agree on an arbitrator, then assigned by JAMS. The Owners, or either or them, or the apartment management company shall serve each Owner and JAMS a demand for Arbitration within three business days of September 1st if no Shared Expenses Budget has been approved. Such arbitration shall be

conducted pursuant to JAMS Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules (and shall be decided within 30 days of submission of the dispute to JAMS) and shall be mandatory and the judgment of the arbitrator shall be final. Except in the case of an emergency, neither the apartment management company nor any Owner shall incur any Shared Expenses in excess of the Shared Expenses Budget without the written consent of both Owners.

Each owner may send written notice to the other owner from time to time requesting that owner to pay its respective Prorata Share of Shared Expenses, provided that statements therefor shall be sent no more frequently than once each month. Each Owner shall pay, within fifteen (15) days of delivery of any such written notice, its Prorata Share of such Shared Expenses. Such notice shall include an itemized statement, with supporting evidence in the form of invoices, receipts, or other evidence of the nature of the expenses incurred, of all expenses incurred by the Owner seeking payment in operating, maintaining, repairing and/or replacing the Common Facilities.

In the event that any owner of a Parcel fails to fulfill its obligations under the terms of this Agreement (a "Non-Performing Owner"), including, without limitation, performance of maintenance and repair of the Common Facilities, then upon ten (10) days' written notice from any owner of any other Parcel (a "Performing Owner"), such Performing Owner may perform any such obligations of the Non-Performing Owner in accordance with the terms and standards of this Agreement at the sole cost and expense of the Non-Performing Owner. Upon delivery of written notice of the cost and expense of completing such obligations, including an itemized statement thereof with supporting evidence in the form of invoices, receipts, or other evidence of the nature of the expenses incurred, such Non-Performing Owner shall immediately pay to the Performing Owner the full amount of such costs and expenses, together with interest at the rate of 6% per annum.

Notwithstanding anything to the contrary contained herein, nothing contained herein shall obligate any Owner to construct any new improvement on any other Owner's Parcel (or to directly or indirectly pay to such other Owner any amount on account of any such new improvement on such other Owner's Parcel). Any lien on any Parcel created hereunder shall automatically be subject and subordinate to the lien of any deed of trust or mortgage now or hereafter encumbering such Parcel. No breach or violation of any term or provision hereof by any Owner shall defeat, render invalid, extinguish, modify or otherwise affect the lien of any deed of trust or mortgage now or hereafter encumbering all or any part of such Owner's Parcel (and upon foreclosure of any such deed of trust or mortgage, the purchaser at such foreclosure sale shall take the Parcel free of any lien or obligation arising with respect to any such breach or default by such Owner).

6. Insurance.

The Owners shall, at their sole cost and expense, maintain in full force and effect with respect to all their respective Parcels: Commercial general liability insurance written on an occurrence basis, with limits of at least \$1,000,000 per person per accident and at least \$1,000,000 property damage, or Combined Single Limit of at least \$2,000,000 consisting of both bodily injury and property damage coverage.

Each owner of a Parcel shall cause the owner of the other Parcels to be named as an additional insured under its respective commercial general liability policy.

At least annually and upon renewal, each owner required to be insured under this paragraph shall furnish each other owner with certified copies of all such policies and with valid certificates of insurance for all of such policies showing the carriers, policy numbers, names of additional insureds and expiration dates.

7. Eminent Domain. Nothing herein shall be construed to give either Owner any interest in any award or payment made to the other Owner, as the owner of its respective Parcel, in connection with any exercise of the power of eminent domain, or transfer in lieu thereof, affecting any portion of a Parcel, even though the affected portion of such Parcel is encumbered by the easement rights herein granted; however, each Owner shall have the right to make a separate claim against any condemning authority for any diminution in value of its Parcel on account of the loss of use of the easement rights herein granted and for the value of any improvements installed by such Owner pursuant to said easement rights which are damaged or destroyed in connection with any exercise of the power of eminent domain or any transfer in lieu thereof. The Owner of a Parcel that is subject to a taking or condemnation shall, to the extent reasonably practicable, promptly repair, restore, and relocate, if necessary, any easements affected by such taking or condemnation.

8. Attorneys' Fees. In the event any Owner shall be in default under this Agreement, or if any dispute shall arise between the Owners concerning the interpretation of this Agreement, and if an action shall be brought in connection therewith in which it shall be finally (with no further appeal being available due to the expiration of appeal periods or otherwise) determined that any Owner was in default, or that the court agrees with one Owner's interpretation of the disputed provision of this Agreement, the Owner determined by the court to be in default, or with whose interpretation of this Agreement the court does not agree, shall pay to the other Owner's all reasonable attorneys' fees and litigation expenses incurred or paid by the other Owner's in connection therewith.

9. General Standard of Use and Maintenance. The Owners of each Parcel shall exercise their rights hereunder so as not to materially interfere with the normal use of the other Parcel and the rights of the other Owner, shall not construct or place any obstacle or otherwise interfere in any way with the use of the easements herein granted by any other parties entitled to the use and enjoyment of them as described herein, and shall maintain the easement facilities located on its Parcel in a condition and appearance consistent with the integrated operation and appearance of the Parcels. Each of the Owners shall have the right in its sole discretion, to relocate, remove or alter the surface of or any structure

or facility located on its Parcel, provided that such relocation, removal or alteration does not materially interfere with the rights granted hereunder to any other Owner.

- 10. Covenants Run with the Land. All of the easements, restrictions and obligations herein shall create servitudes running with the title to the Parcels herein described. The benefits and burdens under this Agreement are not personal but shall run with the title to their respective Parcels and shall be binding upon and shall inure to the benefit of the Owners and their respective successors and assigns as owners of the Parcels. In the event of sale of all or any residential units within the Parcels, the purchaser shall be responsible for carrying out the obligations set forth herein and, in the event less than all of one Owner’s residential units are sold or transferred, the purchaser’s prorata share shall be determined in the same manner set forth above in Section 2. The obligations of purchasers may be undertaken by homeowners’ associations to which the purchaser belongs but the purchaser shall remain primarily liable for fulfillment of these obligations.

In the event that either Parcel shall cease to be used for residential purposes then all easements and rights granted with respect to parking, common amenities and Common Facilities shall be canceled and vacated and all obligations to contribute to the payment of Shared Expenses to the extent they relate to parking, common amenities and Common Facilities shall cease. The Owners expressly agree that they shall execute and record a vacation of all rights and duties granted under this Agreement which relate to parking, common amenities and Common Facilities. Notwithstanding the foregoing, both Parcels shall only be used for multifamily residential and related purposes unless and until a change of use is approved by the City of Elk Grove and all then-existing limited partners and lenders of both EGPA II and EGPA III and nothing in the foregoing shall be interpreted to allow a change of use under any other circumstances.

- 11. Notices. All notices, requests, demands, consents and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly and properly given on the date of service if delivered via hand delivery, or on the first business day following deposit with a nationally recognized overnight courier service (e.g. FedEx), postage prepaid, in any event addressed appropriately as follows:

If to EGPA II: Elk Grove Pacific Associates II, LP
430 E. State St., Ste. 100
Eagle, ID 83616
Attn: Caleb Roope

With copy to: Wells Fargo Affordable Housing
Community Development Corporation
MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 28288
Attention: Director of Asset Management

If to EGPA III: Elk Grove Pacific Associates III, LP
430 E. State St., Ste. 100
Eagle, ID 83616
Attn: Caleb Roope

With copy to: Wells Fargo Affordable Housing
Community Development Corporation
MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 28288
Attention: Director of Asset Management

Any Party may change its address for purposes of this Section 11 by giving the other Parties written notice of the new address in the manner set forth above.

12. Co-Management. Owners agree that they shall, during any time during which both Developments are being operated, utilize the same management company to manage their respective Developments. The common management agent shall enter into separate contracts with each Owner and bill for services separately.

In the event of a dispute between the Owners as to what management agent to select at any given time or as to whether an acting management agent shall be terminated, such dispute shall be decided by an arbitrator to be chosen by the Owners or, if the parties cannot agree on an arbitrator, then assigned by JAMS. Such arbitration shall be conducted pursuant to JAMS Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules (and shall be decided within 60 days of submission of the dispute to JAMS) and shall be mandatory and the judgment of the arbitrator shall be final.

13. Construction Licenses. Each Owner grants the other Owner and its employees, agents, contractors, guests and invitees, the right, privilege and license to use their Parcel for purposes of storing construction materials and equipment and for parking and office use while construction of the construction of the Developments is in progress. All such use shall be at no cost to the Owner making such use.

The method of use of the Parcels under this license shall be as follows:

The Parcels shall be used in an orderly and workmanlike manner and without undue interruption to the construction of the Development being constructed on the Parcel being made use of. The Owner making use of the other's Parcel will indemnify and hold the other Owner and its officers, agents, contractors, principals and employees harmless for any liability arising out of the use of the use of the Parcel; and, in exercising the License, the Owner making use must use reasonable care and may not unreasonably increase the burden on the Parcel being used. Owners retain the right to use their Parcels in any manner not inconsistent with the License herein granted.

The license shall be for so long as is reasonably necessary to complete construction of the above-mentioned Developments.

14. Miscellaneous.

- (a) This Agreement may not be amended or modified orally but may be amended or modified only in writing, signed by all of the parties hereto (or their respective successors or assigns as Owners) and approved in writing by the limited partners of Owners to the extent applicable (the "Limited Partners"). Any removal or modification of reciprocal rights of use under items 2-4 shall require approval of the City of Elk Grove. No waiver of any term or provision of this Agreement shall be effective unless it is in writing, making specific reference to this Agreement and signed by the Parties and the Limited Partners, and any such waiver shall not constitute a waiver of any other or subsequent rights under or violations of this Agreement.
- (b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of each of them.
- (c) This Agreement has been executed and delivered in and shall be governed by and construed in accordance with the laws of the State of California.
- (d) If any term or provision of this Agreement shall be held invalid, illegal or unenforceable, in whole or in part, the validity of any and all other terms and provisions of this Agreement shall not in any way be affected thereby.
- (e) The headings contained in this Agreement are for convenience of reference only and are not part of this Agreement and shall not be used in construing it.
- (f) This Agreement may be executed in multiple counterparts, each of which, when taken together, shall constitute an original.
- (g) This Agreement may be enforced in a California court of law or equity in any manner provided by law or in this Agreement, including, without limitation, any action for specific performance or damages, and any failure by any party to enforce any provision of this Agreement shall in no event be deemed a waiver of the right to do so thereafter.
- (h) Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of the Parcels, Common Area Facilities or Utility Facilities, it being the intent of the Owners that this Agreement shall be strictly limited to and for the purposes herein expressed. No easements, except those expressly set forth herein, shall be implied by this Agreement.
- (i) Nothing contained herein shall be construed to make any Party hereto partners or joint ventures, or to render either of the Parties liable for the debts or obligations of any other Party hereto.
- (j) This Agreement shall be recorded in the County Recorder's Office of the County of Sacramento, California and Owners shall share the expense of recordation.

- (k) Each Owner shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the other Owner, its officers, partners, officials, employees, agents and contractors from and against any claims or damages arising out of an Owner's performance or failure to comply with the obligations under this Agreement, for its negligent or willful acts or omissions or in connection with its exercise of any easement or license granted hereunder.

- (l) An "Event of Default" shall occur under this Agreement in the event there is a breach of any provision, condition, covenant, warranty, promise or representation contained in this Agreement, and such breach continues for a period of thirty (30) days after written notice thereof to the defaulting party, the limited partners of Owners and to any lenders of Owner that have provided Owners with notice information ("Parties With Cure Rights") without the defaulting party or other Parties With Cure Rights curing such breach; provided, however, if such default is of the nature requiring more than 30 days to cure, the defaulting Party shall avoid default hereunder by commencing to cure within such 30 day period, and thereafter diligently pursuing such cure to completion within an additional sixty (60) days following the conclusion of such 30 day period (for a total of ninety (90) days). Except as required to protect against further damages, the injured Owner may not institute proceedings against the Owner in default until the time for cure has expired. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Furthermore, each Owner agrees that, in the case of a default by the other Owner, the non-defaulting Owner shall give notice of such default to all Parties With Cure Rights and that any such party shall have the right, but not the obligation, to cure the default and the non-defaulting Owner agrees to accept cure from any of the Parties With Cure Rights to the same extent as it would be obligated to accept cure from the defaulting Owner.

- (m) Each Owner acknowledges that there may from time to time be certain covenants, recorded documents, and other agreements that encumber both the EGPA II Property and the EGPA III Property and require compliance by both the Owners (any such current or future agreements, the "Joint Agreements"). Each Owner agrees to at all times comply, and to cause its respective Parcel to comply, with terms of each Joint Agreement. In the event that any Owner becomes liable or incurs any costs or expenses related to or arising from the other Owner's failure to comply with any such Joint Agreement, the defaulting Owner shall indemnify and hold harmless the non-defaulting Owner from any such liability and reimburse the non-defaulting Owner for any such costs or expenses upon receipt of a written demand for payment. Each Owner shall have the right, but not the obligation, to cure the other Owner's violation of a Joint Agreement and to seek reimbursement as set forth above.

IN WITNESS WHEREOF, the parties execute this agreement as of the date first above written.

SIGNATURES ON FOLLOWING PAGE

Elk Grove Pacific Associates II, a California
Limited Partnership

TPC Idaho Holdings V, LLC, its Administrative
General Partner

By: _____

Name: Caleb Roope

Title: Manager

Acknowledgement Attached

Elk Grove Pacific Associates II, a California
Limited Partnership

TPC Idaho Holdings V, LLC, its Administrative
General Partner

By: _____

Name: Caleb Roope

Title: Manager

Acknowledgement Attached

EXHIBIT "A"

LEGAL DESCRIPTION OF EGPA II PROPERTY

EXHIBIT "B"
LEGAL DESCRIPTION OF EGPA III PROPERTY

EXHIBIT F

Subordination Agreement

[See attached document]

WHEN RECORDED MAIL TO:

Wells Fargo Bank, National Association
 Community Lending and Investment
 1300 S.W. Fifth Avenue, 12th Floor
 MAC P6101-121
 Portland, Oregon 97201
 Attention: Tierney Chappell

SUBORDINATION AGREEMENT**(City Loan)**

SUBORDINATION AGREEMENT dated as of [____], 2017 (as the same may be amended from time to time) (this "Agreement"), by and among (i) **ELK GROVE PACIFIC ASSOCIATES II, A CALIFORNIA LIMITED PARTNERSHIP** (the "Borrower"), (ii) **PACIFIC WEST COMMUNITIES, INC.**, an Idaho corporation ("PWC"), (iii) **PACIFIC WEST BUILDERS, INC.**, an Idaho corporation ("PWB" and collectively with PWC, "Guarantor"), (iv) **WELLS FARGO BANK, NATIONAL ASSOCIATION** (the "Senior Lender") and (v) the **CITY OF ELK GROVE**, a California municipal corporation (the "Subordinate Lender") (collectively, the "Parties").

WHEREAS, the Senior Lender is making a loan to Borrower in the original principal amount of [Ten Million Four Hundred Thousand Dollars (\$10,400,000.00)] (the "Senior Loan") during the construction period pursuant to that certain Promissory Note Secured by Deed of Trust (the "Senior Note") by Borrower dated as of the date hereof, in order to finance a portion of the construction of an affordable multifamily housing project (the "Project") on real property owned by Borrower and more specifically described in Exhibit A attached hereto (the "Property"). The Senior Loan will be governed by that certain Building Loan Agreement dated as of the date hereof (the "Senior Loan Agreement"), executed by and between Senior Lender and Borrower, and secured by, among other things, that certain Construction Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of even date herewith (the "Senior Deed of Trust"), executed by Borrower for the benefit of Senior Lender and recorded concurrently herewith in the Official Records of the County of Sacramento, California (the "Official Records"), and the remainder of the Senior Documents (as defined below). In connection therewith, Guarantor and certain other guarantors are executing one or more guaranties and environmental indemnities in favor of Lender, including, without limitation, that certain Completion Guaranty, Repayment Guaranty (Secured Loan) and Hazardous Materials Indemnity Agreement (Unsecured), each dated as of even date with the Senior Loan Agreement (collectively, the "Senior Guaranties").

WHEREAS, the Subordinate Lender is making a loan to Borrower in the original principal amount of Three Hundred Thousand Dollars (\$300,000.00) (the "Subordinate Loan"). The Subordinate Loan is governed by that certain Affordable Housing Loan Agreement (Development Loan for Bow Street Phase I Affordable Housing Project) (\$300,000) dated as of July 22, 2017 (the "Subordinate Loan Agreement"), executed by and between Borrower and Subordinate Lender, evidenced by that certain Promissory Note Secured by Deed of Trust (Bow Street Phase I Affordable Housing Project) (Affordable Housing Note) (\$300,000) dated as of July 22, 2017 (the "Subordinate Note"), made by Borrower to the order of Subordinate Lender in the original principal amount of \$300,000.00, and secured by that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Securing Affordable Housing Loan of \$300,000 to Elk Grove Pacific Associates II, LP) dated as of July 22, 2017 (the "Subordinate

Deed of Trust"), executed by Borrower for the benefit of Subordinate Lender, and recorded in the Official Records concurrently herewith. In connection therewith, Guarantor is executing in favor of Subordinate Lender that certain Guaranty of Non-Recourse Obligations dated as of July 22, 2017 (the "Subordinate Guaranty").

WHEREAS, in connection with the Subordinate Loan, Subordinate Lender and Borrower are entering into that certain Regulatory Agreement (Bow Street Phase I Affordable Housing Project) (the "Regulatory Agreement") and that certain Notice of Affordability Restrictions on Transfer of Property (Bow Street Phase I Affordable Housing Project), both dated as of July 22, 2017 and recorded in the Official Records concurrently herewith, pursuant to which Borrower has agreed to restrict the lease of Project units in accordance with certain affordability restrictions set forth therein (the "Affordability Restrictions").

WHEREAS, the Parties have agreed to enter into this Agreement to subordinate the Subordinate Documents (as defined below), subject to the exceptions noted below, to the Senior Documents.

NOW THEREFORE, the Parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of their mutual covenants and agreements hereinafter set forth and intending to be legally bound hereby, covenant and agree as follows:

1. **Definitions.**

"Cure Period" shall mean a period of a thirty (30) consecutive days from the giving of a Default Notice.

"Default Notice" shall mean the written notice of the Event(s) of Default giving rise to a party's right to complete a Foreclosure Remedy that is recorded in the Official Records no later than thirty (30) days prior to a Foreclosure Remedy.

"Defaulted Lender" shall mean the party giving a Default Notice.

"Event of Default" shall mean any default or event of default (however defined) occurring pursuant to the terms of the Senior Documents, Subordinate Documents or Regulatory Agreement, as applicable.

"Foreclosure Remedy" shall mean the completion of a foreclosure sale of the Property or the recording of a deed-in-lieu of foreclosure with respect to the Property.

"Noticed Defaults" shall mean the noticed Event(s) of Default set forth in a Default Notice.

"Notice Party" shall mean the party receiving a Default Notice.

"Senior Documents" shall mean the Senior Loan Agreement, Senior Note, Senior Deed of Trust, Uniform Commercial Code Financing Statements, Senior Guaranties and any other documents evidencing, securing or otherwise executed and delivered in connection with the Senior Indebtedness.

"Senior Indebtedness" shall mean all existing and future indebtedness, liabilities and obligations of any kind of Borrower or Guarantor to Senior Lender in the original principal amount of [Ten Million Four Hundred Thousand Dollars (\$10,400,000.00)], for or in connection with the Senior Loan under the Senior Documents, any refinancing or replacements of any of the Senior Documents, and including, without limitation, any obligation with respect to any interest due or to become due with respect to the foregoing that shall accrue subsequent to the filing of a petition or the commencing of a case or the

occurrence of any other action to initiate any bankruptcy, insolvency, reorganization or similar proceeding or after declaration or determination of insolvency or bankruptcy.

"Senior Regulatory Agreement Provisions" shall mean each of the following enumerated provisions set forth in the Regulatory Agreement, which shall at all times remain senior to the lien of the Senior Deed of Trust and shall not be terminated upon the occurrence of a foreclosure under the Senior Loan:

- (a) Sections 1, 2, 8, 9, 10, 11, 12 and 13 (Definitions);
- (b) Section 15 (Term of Agreement);
- (c) Section 18 (Occupancy of Project);
- (d) Section 19 (Project Rents);
- (e) Section 20 (Lead-Based Paint);
- (f) Section 21 (Condominium Conversion);
- (g) Section 22 (Nondiscrimination);
- (h) Section 23 (Operation and Management of Project);
- (i) Paragraph 1 of Section 24 (Maintenance and Security);
- (j) Section 25 (Unit Vacancies);
- (k) Section 26 (Inspection and Records);
- (l) Section 27 (Annual Report);
- (m) Section 29 (Fees, Taxes and Other Levies);
- (n) Section 32 (Asset Management and Compliance Monitoring Fee);
- (o) Section 34, Paragraphs A and F (Default and Remedies), provided, however, these paragraphs shall only constitute Senior Regulatory Agreement Provisions and be senior to the lien of the Senior Deed of Trust to the extent they are undertaken specifically to enforce the remedies in the Senior Regulatory Agreement Provisions and provided further that no rights or remedies related in any way to the Subordinate Documents shall be deemed part of the Senior Regulatory Agreement Provisions;
- (p) Section 35 (Non-Liability of Officials, Employees and Agents), provided, however, this provision shall only constitute a Senior Regulatory Agreement Provision and be senior to the lien of the Senior Deed of Trust to the extent it is specifically related to the undertakings by Subordinate Lender in accordance with the Senior Regulatory Agreement Provisions;
- (q) Section 36 (Indemnity), provided, however, that Senior Lender shall only be obligated to indemnify, defend and hold harmless the Subordinate Lender and other indemnitees set forth therein from the losses, damages, liabilities, claims, demands, judgments, actions, court costs and legal or other expenses contemplated thereunder (collectively, the "Indemnified Costs") to the extent that such Indemnified Costs arise out of or are attributable to the acts, omissions or

conduct of Senior Lender, and Senior Lender shall not be obligated for any Indemnified Costs that arise out of or are otherwise attributable to the acts, omissions or conduct of any prior or subsequent owner of the Property, including, without limitation, Borrower.

- (r) Section 37 (Governing Law);
- (s) Section 39 (Attorneys' Fees and Costs);
- (t) Section 40 (Time);
- (u) Section 41 (Consents and Approvals);
- (v) Section 42 (Notices, Demands and Communications);
- (w) Paragraph 1 of Section 43 (Binding Upon Successors);
- (x) Section 44 (Relationship of Parties);
- (y) Section 45 (Waiver);
- (z) Section 46 (Other Agreements);
- (aa) Section 47 (Amendments and Modifications);
- (bb) Section 48 (Severability);
- (cc) Section 49 (Participation in Section 8 Program);
- (dd) Section 50 (Cooperation With City-Supported Homelessness Program); and
- (ee) Section 51 (Survival of Agreement).

The Senior Regulatory Agreement Provisions shall only include the foregoing and any other provision of the Regulatory Agreement not specifically enumerated above shall have the same priority as the Subordinate Deed of Trust and other Subordinate Documents. Notwithstanding the foregoing or anything to the contrary contained herein, for the avoidance of doubt, if Senior Lender or any other party shall become the owner of the Property by reason of foreclosure, whether judicial or non-judicial or other proceedings brought to enforce the Senior Deed of Trust or by deed-in-lieu of foreclosure, in any and all events, the Senior Lender shall not be: (i) liable for any act or omission of any prior owner (including, without limitation, Borrower) or subject to any offsets or defenses which Subordinate Lender might have against any such prior owner; (ii) liable or obligated to expand the Property, construct additional improvements or otherwise expend funds which are capital in nature other than expenses for ordinary maintenance and repair; (iii) liable to reconstruct the Property to the extent insurance proceeds are not available therefor; or (iv) liable for any obligation to indemnify or reimburse Subordinate Lender or any other third party or any of their respective successors and assigns from and against any loss, liability, damage or cost relating to or arising from the presence of any toxic or hazardous materials on, under or about the Property.

"Subordinate Documents" shall mean the Subordinate Loan Agreement, Subordinate Note, Subordinate Deed of Trust, Subordinate Guaranty, Regulatory Agreement and any other documents evidencing, securing or otherwise executed and delivered in connection with the Subordinated Indebtedness, but specifically excluding the Affordability Restrictions and the other Senior Regulatory Agreement Provisions, which shall not be subordinated by this Agreement.

“Subordinated Indebtedness” shall mean all existing and future indebtedness, liabilities and obligations of any kind of Borrower to the Subordinate Lender not to exceed Three Hundred Thousand Dollars (\$300,000.00) under the Subordinate Loan, any refinancings or replacements of any of the Subordinate Documents, and including, without limitation, any obligation with respect to any interest due or to become due with respect to any of the foregoing that shall accrue subsequent to the filing of a petition or the commencing of a case or the occurrence of any other action to initiate any bankruptcy, insolvency, reorganization or similar proceeding or after declaration or determination of insolvency or bankruptcy.

2. **Subordination.**

(a) Subordination of Loans and Loan Documents. Senior Lender and Subordinate Lender each agree that the (i) Subordinated Indebtedness and Subordinate Documents, (ii) any and all renewals, modifications, extensions, or advances thereunder or secured thereby (including interest thereon), (iii) any liens and security interests created by the Subordinate Documents, and (iv) all rights (including, without limitation, all rights to receive payments), remedies, conditions, terms and covenants contained in the applicable Subordinate Documents are hereby and at all times and in all respects, wholly subordinate and inferior in claim and right to the applicable (i) Senior Indebtedness and Senior Documents, (ii) any and all renewals, modifications, extensions, or advances thereunder or secured thereby (including interest thereon), (iii) the liens and security interests created by the Senior Documents, and (iv) all of the rights (including, without limitation, all rights to receive payments), remedies, conditions, terms and covenants contained in the Senior Documents and any claims, rights, and remedies arising therefor or in connection therewith. No amendments, modifications consolidations, supplements, amendments, replacements and restatements of and/or to the Senior Documents or waivers of any provisions thereof shall affect the subordination thereof as set forth in this Section.

Subordinate Lender consents to any agreement or arrangement in which Senior Lender renews, modifies, extends, waives or reduces any provisions of the Senior Documents, including any provision requiring the payment of money; provided, however, the prior written consent of Subordinate Lender, which consent shall not be unreasonably withheld, delayed or conditioned, shall be required for modifications, extensions, renewals, and advances under the Senior Documents to: (1) advance additional indebtedness, (2) increase the interest rate, or (3) reduce the term of the Senior Loan; provided, further, however, the modifications, extensions, renewals, and advances herein referred to shall include and no consent of Subordinate Lender shall be required for, without limitation, modifications, extensions, renewals and advances arising with respect to the exercise of any of Senior Lender’s rights and/or remedies under the Senior Documents, including, without limitation, any advances to protect, preserve and/or maintain the Property and any charges for default interest or as a result of late payments. Senior Lender need not obtain the prior consent of Subordinate Lender for advances hereafter made for the purposes of (1) protecting or further securing the lien of the Senior Deed of Trust, curing defaults by the Borrower under the Senior Documents or for any other purpose expressly permitted by the Senior Documents, or (2) constructing, renovating, repairing, furnishing, fixturing and/or equipping the Property without material deviation from the Plans and Specifications described in the Senior Documents and pursuant to the Physical Needs Assessment as approved by the Subordinate Lender and Senior Lender. Nothing in this Section shall limit Subordinate Lender’s rights as set forth in Section 3 below.

(b) Recording Order. The parties agree that the following documents shall be recorded in the order set forth below in the Official Records of Sacramento County with respect to the Property:

- (1) The Regulatory Agreement;
- (2) The Affordability Restrictions;
- (3) The Senior Deed of Trust; and

(4) The Subordinate Deed of Trust.

3. **Notice and Cure Rights.**

(a) **Notices of Default.** Senior Lender and Subordinate Lender agree to give to each other copies of all notices of any Event of Default (subject to applicable notice and cure periods) under their respective documents, provided, however, that no failure of any party to provide such notice shall affect the subordination of the Subordinate Documents herein granted. Except as provided in Section 3(b) below with respect to a Default Notice, it is the express intent of the parties that all such notices are provided as a courtesy only and that failure of any party to give any such notice for any reason shall not (i) act to impair or waive any right of any party under this Agreement, or under any of the Senior Documents or Subordinate Documents, as applicable, or (ii) subject any party to any liability to any other party for any loss, cost or expense any such party may incur as a result of such default or Event of Default. Without limiting the foregoing, Senior Lender is a third party beneficiary of the Regulatory Agreement as it pertains to the notice and cure rights set forth under the Senior Regulatory Agreement Provisions.

(b) **Notice and Cure Rights.** Senior Lender and Subordinate Lender each agrees that it shall not complete a Foreclosure Remedy unless and until it has first given a copy of the Default Notice to the other party, and the other party has failed to cure the Noticed Defaults with the Cure Period; provided, however, that such Defaulted Lender shall be entitled during the Cure Period to continue to pursue all of its rights and remedies under the Senior Documents or Subordinate Documents, as applicable, including but not limited to acceleration of any note or other debt instrument (subject to the de-acceleration provisions set forth below), commencement and pursuit of foreclosure (but not completion of the foreclosure sale), any guaranty (subject to any notice and cure provisions contained therein), and/or any other loan document. Except as specifically provided herein, or otherwise agreed in writing, Senior Lender's or Subordinate Lender's failure to give any such notice for any reason shall not act to impair or waive any remedy or right of Senior Lender or Subordinate Lender under this Agreement or any of the Senior Documents or Subordinate Documents, as applicable. It is the express intent of the parties hereunder that each Defaulted Lender shall have the right to pursue all rights and remedies except completion of a Foreclosure Remedy without liability to the other party for failure to provide notice to such party, and that Defaulted Lender's liability hereunder shall be expressly limited to actual damages to the other party directly caused by such Defaulted Lender's completion of a Foreclosure Remedy without the other party receiving the notice and opportunity to cure described above.

(c) **Request For Notice.** Unless expressly prohibited by law, Subordinate Lender agrees to record a "Request for Notice," or similar appropriate document requesting notice of any foreclosure sale, in the Official Records, and in the event Senior Lender has failed to sooner provide notice to Subordinate Lender, the receipt of such notice of foreclosure sale by Subordinate Lender shall be deemed to be notice to Subordinate Lender as contemplated hereunder.

(d) **Exercise of Cure Rights.** With respect to the exercise of the cure rights provided in this Section 3, the following shall apply:

(i) Each Notice Party shall have the right, but not the obligation, to elect to cure the Noticed Defaults by giving the Defaulted Lender written notice of its intention to cure the Noticed Defaults within the Cure Period and thereafter curing all Noticed Defaults within the Cure Period.

(ii) If a cure of all the Noticed Defaults is completed within the Cure Period, the Defaulted Lender will rescind any notice of default recorded and request dismissal of any receiver who has been appointed, after reimbursement of all of Defaulted Lender's costs, including, without limitation, reasonable attorneys' fees and costs.

(iii) Following the timely cure of all Noticed Defaults by a Notice Party, the Defaulted Lender will not exercise its right to accelerate (or will de-accelerate) the amounts due under the Defaulted Lender's loan documents by reason of the Noticed Defaults cured by such Notice Party; provided, however, that nothing herein shall be construed to waive or limit any of Defaulted Lender's rights or remedies as to any uncured Noticed Default, or any subsequent default, by Borrower.

(iv) Nothing in this Section is intended to limit or modify any covenant, term, or condition contained in the Senior Documents, including, without limitation, any covenant against creating or recording any liens or encumbrances against the Property without Senior Lender's prior written approval, and any acceleration clause in the Senior Deed of Trust.

4. **Rights of Subrogation; Bankruptcy.**

(a) So long as any obligations under the Senior Documents remain outstanding, Subordinate Lender hereby waives any requirement for marshaling of assets thereby in connection with any foreclosure of any security interest or any other realization upon collateral in respect of any of the Subordinate Documents, as applicable, or any exercise of any rights of set-off or otherwise. Subordinate Lender assumes all responsibility for keeping itself informed as to the condition (financial or otherwise) of Borrower and Guarantor, the condition of the Property and all other collateral and other circumstances and, except for notices expressly required by this Agreement, Senior Lender shall not have any duty whatsoever to obtain, advise or deliver information or documents to the other relative to such condition, business, assets and/or operations. Senior Lender does not owe a fiduciary duty to Subordinate Lender in connection with the administration of the Senior Loan and the Senior Documents and Subordinate Lender agrees not to assert any such claim.

(b) No payment or distribution to Senior Lender pursuant to the provisions of this Agreement shall entitle Subordinate Lender to exercise any right of subrogation in respect thereof prior to the payment in full of the Senior Indebtedness, and Subordinate Lender agrees that, prior to the satisfaction of the Senior Indebtedness it shall not acquire, by subrogation or otherwise, any lien, estate, right or other interest in any portion of the Property or any other collateral now securing the Senior Indebtedness or the proceeds therefrom that is or may be prior to, or of equal priority to, any of the Senior Documents or the liens, rights, estates and interests created thereby.

(c) The provisions of this Agreement shall be applicable both before and after the commencement, whether voluntary or involuntary, of any case, proceeding or other action against Borrower or Guarantor under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors (a "Proceeding"). For as long as the Senior Indebtedness shall remain outstanding, Subordinate Lender shall not, and shall not solicit any person or entity to, and shall not direct or cause Borrower, Guarantor or any entity which controls Borrower or Guarantor (collectively, the "Borrower Group") to: (i) commence any Proceeding; (ii) institute proceedings to have Borrower or Guarantor adjudicated a bankrupt or insolvent; (iii) consent to, or acquiesce in, the institution of bankruptcy or insolvency proceedings against Borrower or Guarantor; (iv) file a petition or consent to the filing of a petition seeking reorganization, arrangement, adjustment, winding-up, dissolution, composition, liquidation or other relief by or on behalf of Borrower or Guarantor; (v) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for Borrower, Guarantor, the Property (or any portion thereof) or any other collateral securing the Senior Indebtedness (or any portion thereof); (vi) make an assignment for the benefit of any creditor of Borrower or Guarantor; (vii) seek to consolidate the Property or any other assets of the Borrower or Guarantor with any member of the Borrower Group in any proceeding relating to bankruptcy, insolvency, reorganization or relief of debtors; or (viii) take any action in furtherance of any of the foregoing.

(d) If a Subordinate Lender is deemed to be a creditor of Borrower or Guarantor in any Proceeding (i) Subordinate Lender hereby agrees that it shall not make any election, give any

consent, commence any action or file any motion, claim, obligation, notice or application or take any other action in any Proceeding by or against the Borrower or Guarantor without the prior consent of Senior Lender; (ii) Subordinate Lender covenants and agrees not to vote against the interests of Senior Lender in any such Proceeding; (iii) Senior Lender may vote on behalf of Subordinate Lender only if the proposed plan would result in Senior Lender being "impaired" (as such term is defined in the United States Bankruptcy Code) in any such Proceeding with respect to any proposed plan of reorganization in respect of which creditors are voting and (iv) Subordinate Lender shall not challenge the validity or amount of any claim submitted in such Proceeding by Senior Lender in good faith or any valuations of the Property or other Senior Indebtedness collateral submitted by Senior Lender in good faith, in such Proceeding or take any other action in such Proceeding, which is adverse to Senior Lender's enforcement of its claim or receipt of adequate protection (as that term is defined in the Bankruptcy Code); provided, however, this Section shall not apply to invalidate the senior position of the Senior Regulatory Agreement Provisions.

(e) The Subordinate Lender hereby agrees, under the circumstances set forth in this Section, to take such action as may be reasonably requested at any time and from time to time by the Senior Lender, to file appropriate claims and proofs of claim in respect of Subordinated Indebtedness in order to enable, under the circumstances set forth in and in accordance with the terms of such Section, the Senior Lender to enforce any and all claims upon or in respect of the Subordinated Indebtedness and to receive any and all payments or distributions which may be payable or deliverable at any time upon or in respect of the Subordinated Indebtedness. The Subordinate Lender hereby irrevocably authorizes and empowers the Senior Lender, until the Senior Indebtedness shall be finally paid in full, under the circumstances set forth in this Section, to receive every such payment or distribution referred to in such Section.

5. **Subordinate Lender's Municipal Authority.** Nothing contained in this Agreement shall be interpreted to place any restriction or limitation on the Subordinate Lender's right and ability to take such actions as it deems necessary or proper to protect the health and safety of the public, or otherwise interfere with Subordinate Lender's authority as a municipal corporation under federal, state, and local laws, including without limitation, the authority to enforce the Elk Grove Municipal Code and state laws relating to nuisance conditions, health, safety and welfare, and creating a lien upon the Property for the collection of taxes, assessments, and payment of nuisance abatement costs.

6. **Miscellaneous.**

(a) The Subordinate Lender hereby agrees that no failure to exercise, and no delay in exercising, on the part of any holder of the Senior Indebtedness of any right, power or privilege in any agreement relating to any of the Senior Indebtedness, or any right, power or privilege under the terms hereof shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege in any agreement relating to any of the Senior Indebtedness or under the terms hereof preclude any other further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided herein and in any agreement relating to any of the Senior Indebtedness and all other agreements, instruments and documents referred to in any of the foregoing are cumulative and shall not be exclusive of any rights or remedies provided by law.

(b) The Subordinate Lender hereby agrees to execute and deliver such further documents and to do such other acts and things as any holder of the Senior Indebtedness may reasonably request in order fully to effect the purposes hereof.

7. **Representations and Warranties of Subordinate Lender.** Subordinate Lender represents and warrants as follows:

(a) **Qualification.** It has the full legal right, power and authority to perform its obligations under this Agreement.

(b) **Power and Authorization.** The execution and delivery of this Agreement, and the performance by it of its obligations under this Agreement, have been duly authorized by all necessary action and do not require any additional approvals or consents or other action by or any notice to or filing with any person, including, without limitation, any governmental entity.

(c) **Valid and Binding Obligation.** This Agreement, when executed and delivered by Subordinate Lender, will constitute the legal, valid and binding obligation of Subordinate Lender enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general equitable principles.

8. **Duration.** This Agreement is of a continuing nature, and it shall continue in force so long as any Senior Regulatory Agreement Provision remains in full force and effect, notwithstanding any foreclosure or acceptance of a deed-in-lieu of foreclosure by Senior Lender with respect to the Property in connection with the Senior Indebtedness.

9. **Expenses.** Borrower agrees to reimburse Senior Lender for all costs and expenses, including reasonable attorneys' fees and expenses, incurred in connection with a breach by Borrower of any of its obligations and duties hereunder.

10. **Successors and Assigns.** This Agreement shall be binding upon Borrower, Guarantor and Subordinate Lender and upon their respective successors and assigns, and shall be binding upon and inure to the benefit of Senior Lender; provided that Borrower, Guarantor and Subordinate Lender shall not assign any of their respective rights or obligations hereunder without the prior written consent of the Senior Lender.

11. **Governing Law.** This Agreement shall in all respects be governed by, and construed and enforced in accordance with, the laws of California applicable to agreements made and to be entirely performed within such State.

12. **Consent to Jurisdiction.**

(a) THE PARTIES HERETO HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION IN WHICH THE PROPERTY IS LOCATED, IN ANY ACTION, SUIT OR PROCEEDING BROUGHT AGAINST IT AND TO OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTION CONTEMPLATED HEREUNDER OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREE THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD OR DETERMINED IN SUCH COURT. THE PARTIES HERETO AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION, SUIT OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HERETO HEREBY WAIVE AND AGREE NOT TO ASSERT BY WAY OF MOTION, AS A DEFENSE OR OTHERWISE IN ANY SUCH SUIT, ACTION OR PROCEEDING, ANY CLAIM THAT IT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF SUCH COURTS, THAT THE SUIT, ACTION OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM, THAT THE VENUE OF THE SUIT, ACTION OR PROCEEDING IS IMPROPER OR THAT A TRANSACTION DOCUMENT OR THE SUBJECT MATTER THEREOF MAY NOT BE LITIGATED IN OR BY SUCH COURTS.

(b) To the extent permitted by applicable law, the parties hereto shall not seek and hereby waive the right to any review of the judgment of any such court by any court of any other nation or jurisdiction which may be called upon to grant an enforcement of such judgment.

(c) Each party to this Agreement irrevocably consents to service of process upon it by certified or registered mail, return receipt requested, at its address specified below:

If to the Borrower:

Elk Grove Pacific Associates II, A California Limited Partnership
c/o TPV Holdings IV, LLC
430 E. State Street, Suite 100
Eagle, Idaho 83616

With a copy to:

Wells Fargo Affordable Housing
Community Development Corporation
MAC D1053-170
301 South College Street
Charlotte, North Carolina 28288
Attention: Director of Tax Credit Asset Management

If to the Guarantor:

Pacific West Communities, Inc.
430 E. State Street, Suite 100
Eagle, Idaho 83616

And to:

Pacific West Builders, Inc.
430 E. State Street, Suite 100
Eagle, Idaho 83616

If to the Subordinate Lender:

City of Elk Grove
8401 Laguna Palms Way
Elk Grove, California 95758
Attention: City Manager

With a copy to:

City of Elk Grove
8401 Laguna Palms Way
Elk Grove, California 95758
Attention: City Attorney

If to the Senior Lender:

Wells Fargo Bank, National Association
Community Lending and Investment
1300 S.W. Fifth Avenue, 12th Floor
MAC P6101-121
Portland, Oregon 97201
Attention: Mary Hodge
Loan No. 1017238

Nothing contained in this Section shall be deemed to affect the right of either party to this Agreement to serve process in any other manner permitted by law.

13. **Amendment and Waivers.** Except as otherwise provided herein, this Agreement may be changed, modified or waived only by in writing signed by the parties hereto.

14. **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts each of which, when so executed and delivered, shall be an original, and all such counterparts shall together constitute one and the same instrument.

15. **Supremacy of Provisions of this Agreement.** The terms and provisions of this Agreement are supreme and paramount and by its execution and delivery of this Agreement, the Subordinate Lender agrees to abide and be bound by the terms and provisions hereof notwithstanding any inconsistency or conflict with any terms or conditions relating to the Subordinated Indebtedness or the Subordinate Documents.

16. **No Consent to Indebtedness.** The provisions of this Agreement shall not be construed under any circumstances to be a consent of any kind on the part of the Senior Lender to Borrower's incurring any liabilities, obligations or indebtedness, except to the extent expressly provided in the Senior Documents.

17. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter herein and therein, and this Agreement supersedes and replaces any agreement or understanding that may have existed between the parties hereto prior to the date hereof in respect of such subject matter.

18. **Severability.** In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, the parties hereto agree that such holding shall not invalidate or render unenforceable any other provision hereof. The parties hereto further agree that the holding by any court of competent jurisdiction that any remedy pursued by any party hereto is unavailable or unenforceable shall not affect in any way the ability of such party to pursue any other remedy available to it hereunder.

19. **Insurance.** Senior Lender hereby agrees that at any time that it is the owner of the Property, it shall maintain insurance coverages for the Property in such amounts as are equal to the greater of the required insurance coverages and amounts currently set forth in the Senior Loan Agreement or carried by owners for similarly situated multifamily apartment properties in Sacramento County, California; provided that any other further entity succeeding to Senior Lender's ownership interests in the Property shall be required to maintain insurance coverages for the Property equal to those carried by owners for similarly situated multifamily apartment properties in Sacramento County, California.

20. **Permanent Loan.** Each party hereto acknowledges and agrees that at the maturity of the Senior Loan, Borrower contemplates obtaining a permanent term loan (the "Permanent Loan") from Rabobank, N.A., a national banking association, or another party acceptable to Senior Lender ("Permanent Lender") in order to finance a portion of the development and continuing operation of the Project, and all or some of the funds advanced under such Permanent Loan shall be used by Borrower to pay off a portion of the Senior Indebtedness in connection therewith. Subordinate Lender, Borrower and Guarantor agree that if requested by Permanent Lender, Subordinate Lender, Borrower and Guarantor shall enter into a new subordination agreement regarding the Permanent Loan upon the funding thereof to Borrower substantially on the same terms as contained in this Agreement, subject to any reasonable modifications requested by Permanent Lender and Subordinate Lender's approval of such modifications.

[Signature Page(s) to Follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

BORROWER:

**ELK GROVE PACIFIC ASSOCIATES II,
A CALIFORNIA LIMITED PARTNERSHIP**

By: PacH Affordable Holdings, LLC,
a California limited liability company,
its Managing General Partner

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation
its Sole Member and Manager

By: _____
Mark A. Wiese
President

By: TPC Holdings IV, LLC,
an Idaho limited liability company,
doing business in California as
TPC Idaho Holdings IV, LLC,
its Co-Administrative General Partner

By: _____
Caleb Roope
Manager

By: Kelley Ventures, LLC,
a California limited liability company,
its Co-Administrative General Partner

By: _____
Mike Kelley
Manager

PWB:

PACIFIC WEST BUILDERS, INC.,
an Idaho corporation

By: _____
Caleb Roope
President

PWC:

PACIFIC WEST COMMUNITIES, INC.,
an Idaho corporation

By: _____
Caleb Roope
President

DRAFT

SUBORDINATE LENDER:

CITY OF ELK GROVE,
a California municipal corporation

By: _____
Name: _____
Title: _____

DRAFT

SENIOR LENDER:

**WELLS FARGO BANK,
NATIONAL ASSOCIATION**

By: _____
Mary Hodge
Vice President

DRAFT

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

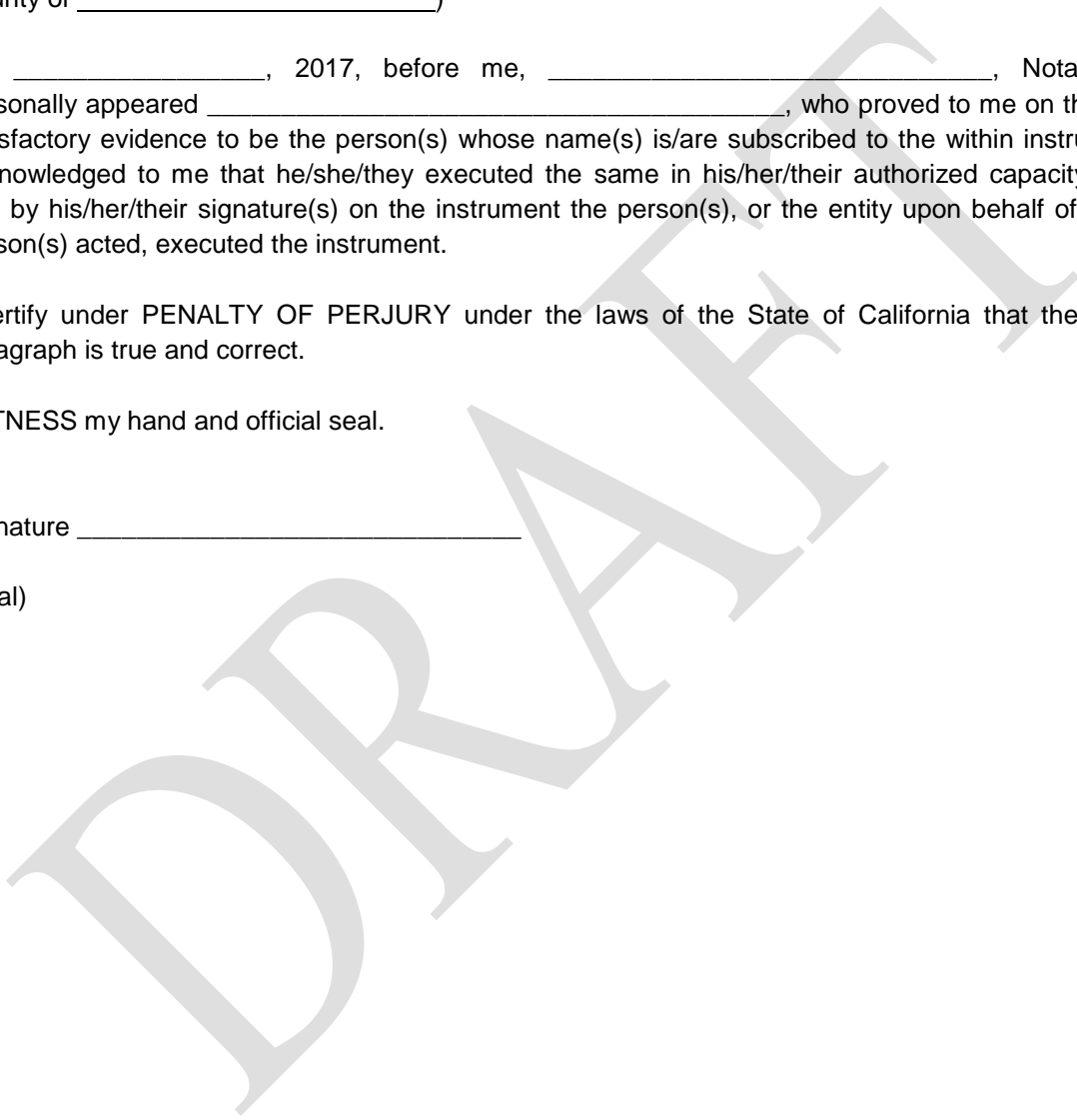
On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

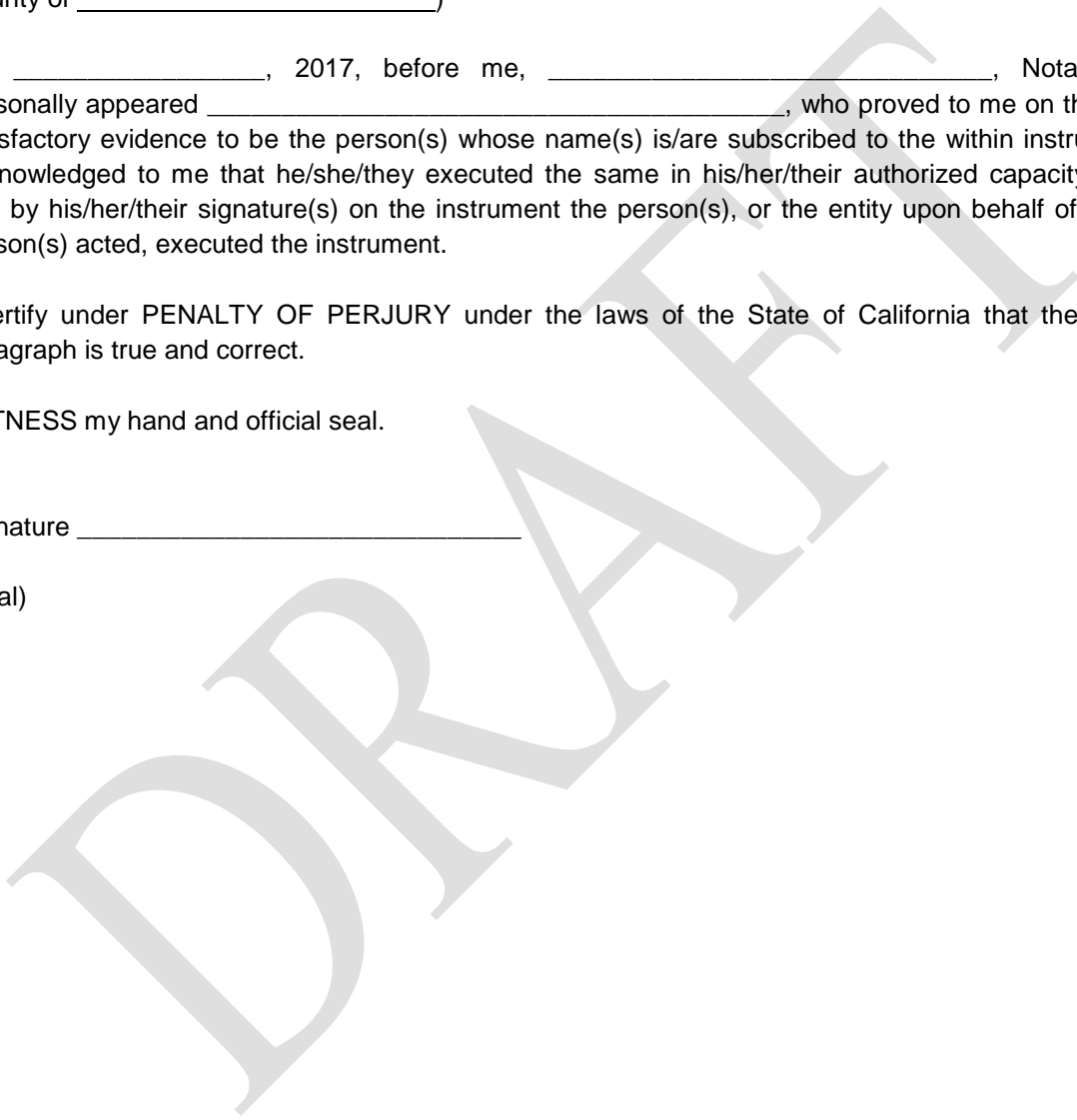
On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

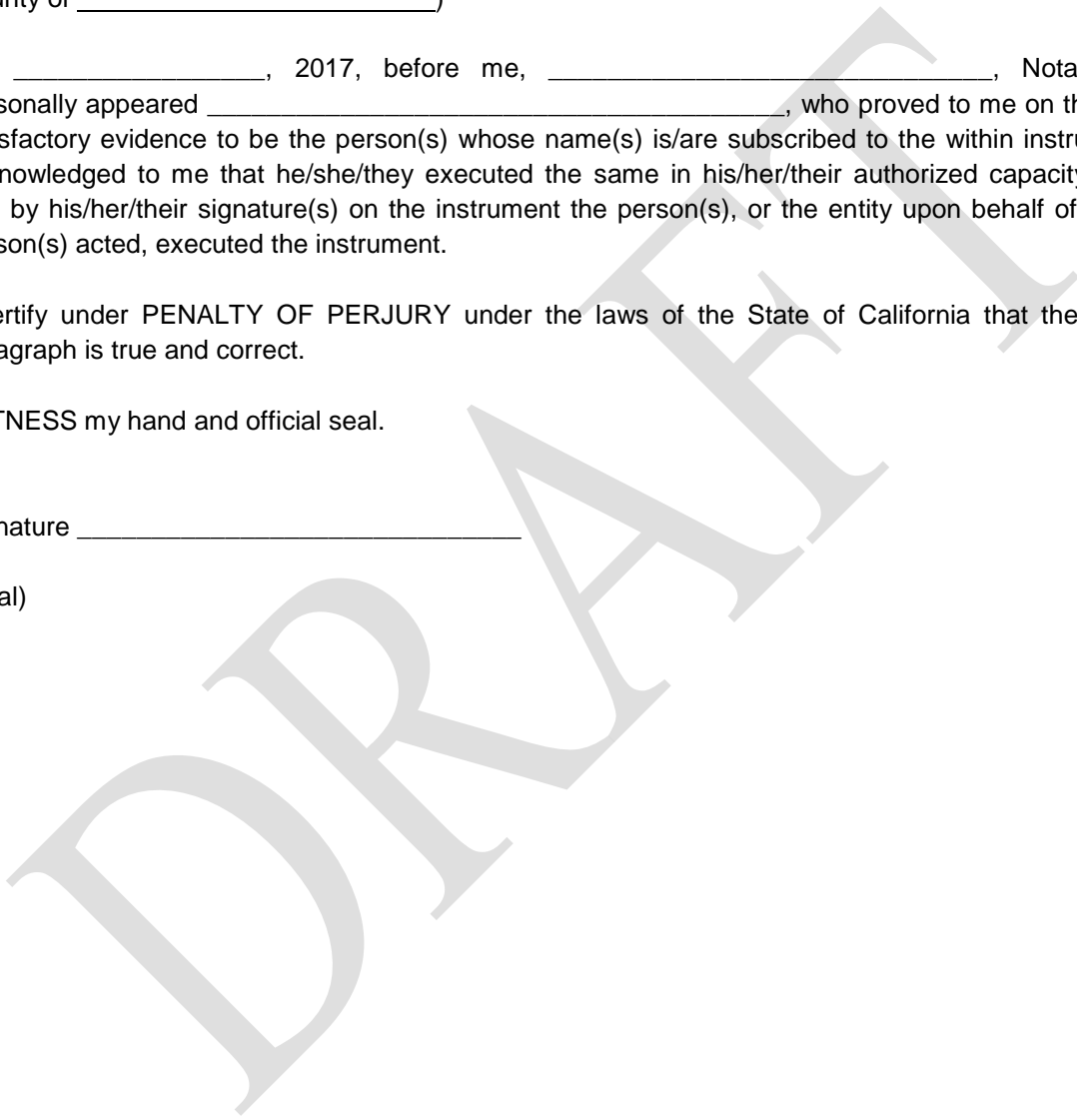
On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)



ACKNOWLEDGMENT

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State of California)
County of _____)

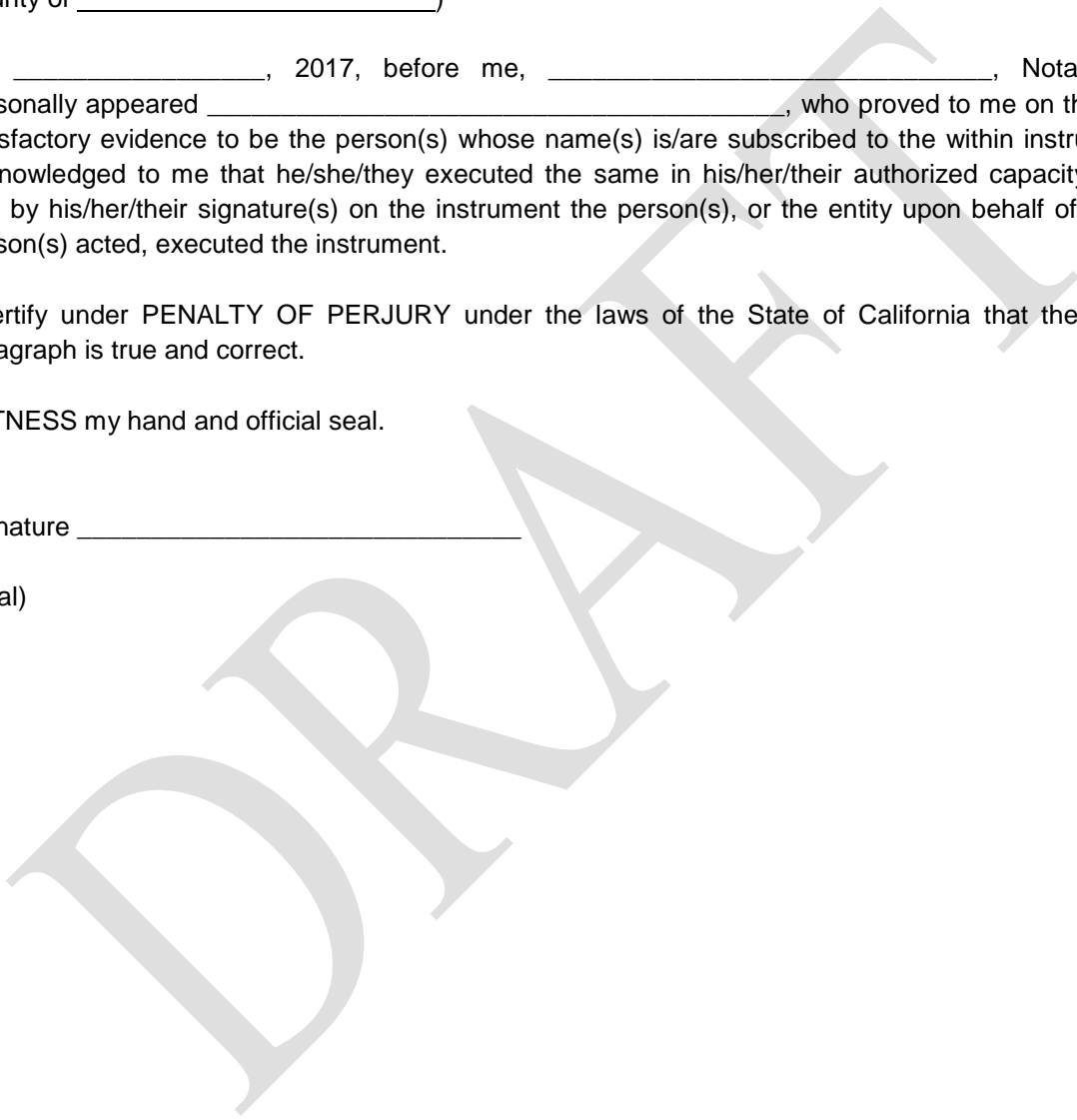
On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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State of California)
County of _____)

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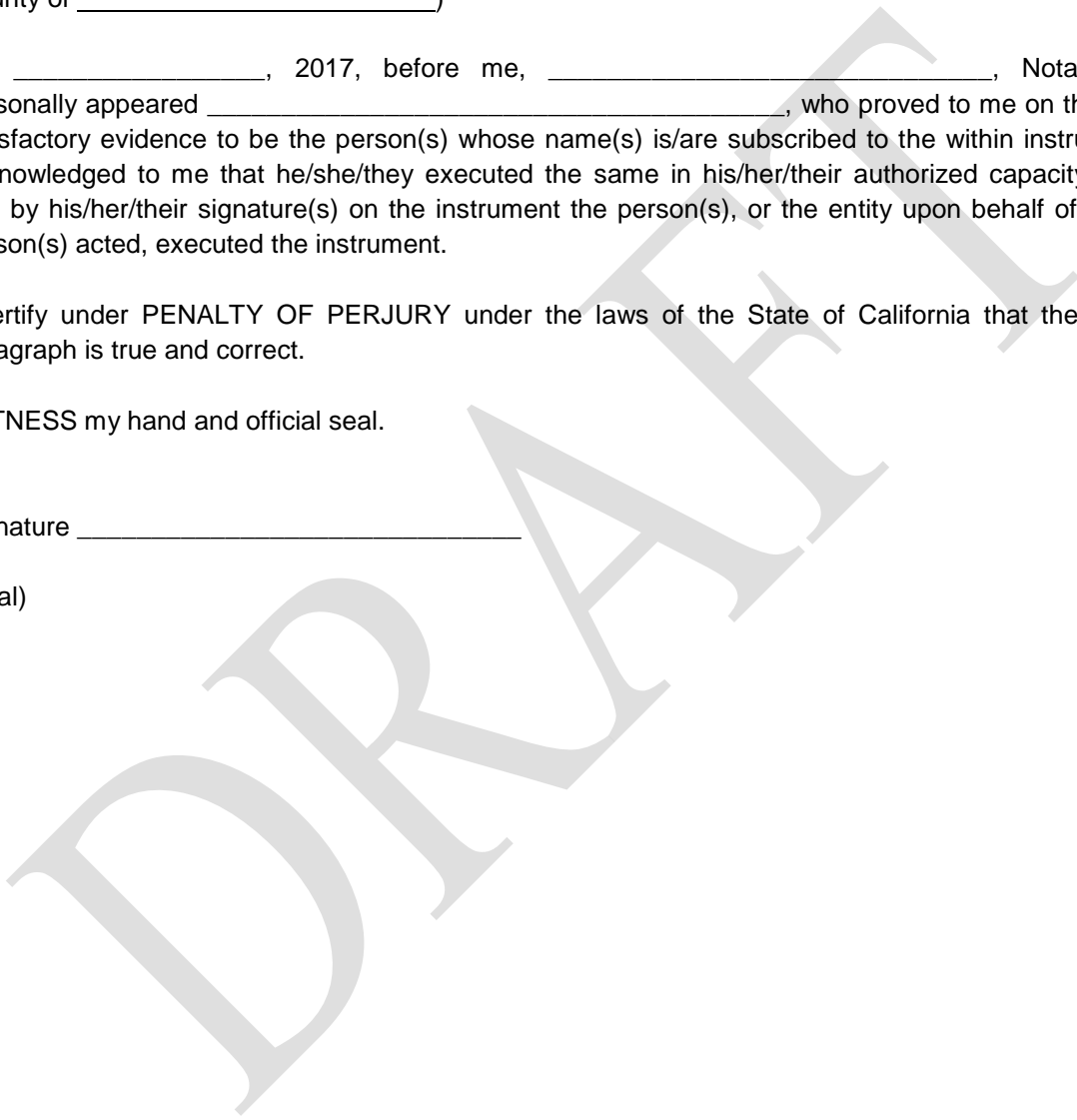


EXHIBIT A

Property Description

DRAFT

EXHIBIT G

Insurance Coverage Requirements

a. Prior to commencement of any work on the Project and continuing until issuance of a Certificate of Occupancy, Borrower and all contractors working on behalf of Borrower shall provide to the City proof of, and maintain in full force and effect at all times until the issuance of a Certificate of Occupancy, at its sole cost and expense, policies of insurance as set forth herein:

i. General Liability:

1. Comprehensive general liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability and product and completed operations liability.
2. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
3. Claims-made coverage is not acceptable.
4. The limits of liability shall not be less than:

Each occurrence:	Two Million Dollars (\$2,000,000)
Products & Completed Operations:	Two Million Dollars (\$2,000,000)
Personal & Advertising Injury:	Two Million Dollars (\$2,000,000)

ii. Umbrella Liability Policy

1. The policy must follow form of the underlying general liability policies.
2. The limit of liability shall not be less than \$5,000,000 per occurrence.

iii. Automobile Liability:

1. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles.
2. Coverage shall be at least as broad as Insurance Services Office Automobile Liability coverage form CA 0001, symbol 1 (any auto).
3. The limits of liability per accident shall not be less than:

Combined Single Limit	One Million Dollars (\$1,000,000)
-----------------------	-----------------------------------
4. If general liability coverage, as required above, is provided by the Commercial General Liability form, the automobile liability policy shall include an endorsement providing automobile contractual liability.

iv. Worker's Compensation

1. Worker's Compensation Insurance, with coverage as required by the State of California (unless the Borrower is a qualified self-insurer with the State of California), and Employers Liability coverage. The Borrower shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in Exhibit H.
2. Employer's Liability Coverage shall not be less than the statutory requirements.
3. If an injury occurs to any employee of the Borrower for which the employee or his dependents, in the event of his death, may be entitled to compensation from the City under the provisions of the Acts, for which compensation is claimed from the City, there will be retained out of the sums due the Borrower under this Agreement, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to the Borrower. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by the Borrower.

v. Builder's Risk

1. Builder's Risk "Special Form" Completed Value upon the entire project which is the subject of this Agreement, including completed work and work in progress.
2. The policy or policies of insurance shall name the Borrower and the City, its officials, officers, employees, agents, and volunteers as insureds as loss payees as their respective interests may appear.
3. The Policy shall include an insurer's waiver of subrogation rights in favor of the Borrower and the City, its officials, officers, employees, agents, and volunteers.
4. Such insurance may have a deductible clause, but the amount of the deductible shall be subject to the approval of the City.
5. In no event shall the Builder's Risk Coverage be less than the total value of the Agreement.
6. Borrower shall comply with all insurance requirements and shall not permit any condition to exist on the Property that would invalidate any part of any insurance coverage that this Instrument requires Borrower to maintain.
7. In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to City.
8. The policy's deductible shall not exceed Fifty Thousand Dollars (\$50,000).

- b. Upon issuance of a Certificate of Occupancy and continuing until the maturity date of the Loan, Borrower shall provide to the City proof of, and maintain in full force and effect at all times until the maturity date of the Loan, at its sole cost and expense, policies of insurance as set forth herein:

i. General Liability:

1. Comprehensive general liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability and product and completed operations liability.
2. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
3. Claims-made coverage is not acceptable.
4. The limits of liability shall not be less than:

Each occurrence:	Two Million Dollars (\$2,000,000)
Products & Completed Operations:	Two Million Dollars (\$2,000,000)
Personal & Advertising Injury:	Two Million Dollars (\$2,000,000)

ii. Umbrella Liability Policy

1. The policy must follow form of the underlying general liability policies.
2. The limit of liability shall not be less than \$5,000,000 per occurrence.

iii. Automobile Liability:

1. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles.
2. Coverage shall be at least as broad as Insurance Services Office Automobile Liability coverage form CA 0001, symbols 8 and 9 (hired and non-owned autos).
3. The limits of liability per accident shall not be less than:

Combined Single Limit	One Million Dollars (\$1,000,000)
-----------------------	-----------------------------------
4. If general liability coverage, as required above, is provided by the Commercial General Liability form, the automobile liability policy shall include an endorsement providing automobile contractual liability.

iv. Worker's Compensation

1. Worker's Compensation Insurance, with coverage as required by the State of California (unless the Borrower is a qualified self-insurer with the State of California), and Employers Liability coverage. The Borrower shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in Exhibit H.
2. Employer's Liability Coverage shall not be less than the statutory requirements.
3. If an injury occurs to any employee of the Borrower for which the employee or his dependents, in the event of his death, may be entitled to compensation from the City under the provisions of the Acts, for which compensation is claimed from the City, there will be retained out of the sums due the Borrower under this

Agreement, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to the Borrower. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by the Borrower.

4. Should the Borrower be exempt from California Labor Code §3700, Borrower shall execute the “Borrower Release of Liability for Worker’s Compensation Coverage” on the form provided by the City in lieu of providing proof of Worker’s Compensation Insurance.

v. Hazard/Property Insurance

1. Property/Hazard insurance on the Project, including improvements and personal property now existing or hereafter located on the Project, insured against all risks of loss including but not limited to fire, windstorm, vandalism, malicious mischief and allied perils, general boiler and machinery coverage, and business interruption including loss of rental value insurance for the Project with extra expense insurance.
2. If City so requires, such insurance shall also include sinkhole insurance, mine subsidence insurance, earthquake insurance, and, if the Project does not conform to applicable zoning or land use laws, building ordinance or law coverage. In the event any updated reports or other documentation are reasonably required by City in order to determine whether such additional insurance is necessary or prudent, Borrower shall pay for all such documentation at its sole cost and expense.
3. If any of the Project is located in an area identified by the Federal Emergency Management Agency (or any successor to that agency) as an area having special flood hazards, Borrower shall insure such improvements against loss by flood.
4. Borrower acknowledges and agrees that City’s insurance requirements may change from time to time throughout the term of the Indebtedness.
5. The policy shall be written on a full replacement value basis and shall name City as loss payee as its interest may appear. The full replacement value of the Project to be insured shall be determined by the company issuing the policy at the time the policy is initially obtained. Not more frequently than once every two (2) years, either the operator or the City shall have the right to notify the other party that it elects to have the replacement value re-determined by the insurance company.
6. Borrower shall comply with all insurance requirements and shall not permit any condition to exist on the Project that would invalidate any part of any insurance coverage that this Instrument requires Borrower to maintain.
7. In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to City.
8. The policy’s deductible shall not exceed Fifty Thousand Dollars (\$50,000).

- c. Prior to commencement of any work on the Project and continuing until the maturity date of the Loan, Borrower and all contractors working on behalf of Borrower shall abide by the following:
- i. All general and auto liability policies required by this Agreement shall contain the following provisions and endorsements:
 1. The City, its officers, officials, employees, agents and volunteers shall be covered and specifically named as additional insured as respects liability arising out of activities performed by or on behalf of the Borrower, products and completed operations of the Borrower, premises owned, occupied, or used by the Borrower, or automobiles owned, leased, hired, or borrowed by the Borrower on a separate endorsement acceptable to the Risk Manager.
 2. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees, and volunteers for losses arising from work performed by the Borrower.
 3. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents or volunteers.
 4. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Borrower's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss or judgment.
 5. Any failure to comply with reporting or other provisions of the policies on the part of the Borrower, including breaches of warranties, shall not affect Borrower's requirement to provide coverage to the City, its officers, officials, employees, agents or volunteers.
 - ii. Acceptability of Insurers: Insurance is to be placed with insurers with a **Bests' rating of no less than A:VII**.
 - iii. Any deductibles, aggregate limits, pending claims or lawsuits that may diminish the aggregate limits, or self-insured retention(s), must be declared to, and approved by, the City.
 - iv. The Borrower shall furnish the City with certificates of insurance and original endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this Agreement. At anytime at the written request of the City, Borrower agrees to furnish a duplicate original or certified copy of each required policy including the declaration pages, conditions, provisions, endorsements, and exclusions.
 - v. The City, at its discretion, may increase the amounts and types of insurance coverage required hereunder at any time during the term of the Agreement by giving 30 days

written notice.

- vi. The Borrower shall serve the City notice, in writing by certified mail, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement that concern the suspension, voidance, cancellation, termination, reduction in coverage or limits, non-renewal, or material changes of coverage proposed or otherwise.
- vii. If the Borrower fails to procure or maintain insurance as required by this section, and any Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due the Borrower under the Agreement.
- viii. Failure of the City to obtain such insurance shall in no way relieve the Borrower from any of its responsibilities under the Agreement.
- ix. The making of progress payments to the Borrower shall not be construed as relieving the Borrower or its agents of responsibility for loss or direct physical loss, damage, or destruction occurring prior to final acceptance by the City.
- x. The failure of the City to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at any time during the term of the contract.
- xi. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Borrower are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Borrower under the Contract.

EXHIBIT H
Certificate of Compliance with Labor Code § 3700

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I have complied or will comply with such provisions before commencing the performance of the work of this Agreement. (Cal. Labor Code §§1860, 1861.)

BORROWER

ELK GROVE PACIFIC ASSOCIATES II,
a California limited partnership

By: PacH Affordable Holdings, LLC,
a California limited liability company

Its: Managing General Partner

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation
its Sole Member and Manager

By: _____
Mark A. Wiese, President

By: TPC Holdings IV, LLC,
an Idaho limited liability company doing business in California as TPC Idaho Holdings
IV, LLC

Its: Co-Administrative General Partner

By: _____
Name: Caleb Roope
Its: Manager

By: Kelley Ventures, LLC,
a California limited liability company

Its: Co-Administrative General Partner

By: _____
Name: Mike Kelley
Its: Manager

NO FEE DOCUMENT

RECORDING REQUESTED BY:
AND WHEN RECORDED, MAIL TO:

City of Elk Grove
c/o City Clerk
8401 Laguna Palms Way
Elk Grove, CA 95758

**NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY
(Bow Street Phase I Affordable Housing Project)**

This Notice of Affordability Restrictions on Transfer of Property (“Notice”) shall be recorded concurrently with the City of Elk Grove Regulatory Agreement for the Bow Street Phase I Affordable Housing Project described below.

1. The property (“Property”) that is the subject of this Notice is located in the City of Elk Grove, County of Sacramento, State of California, and is further described in the legal description attached as Exhibit A and incorporated into this Notice by reference.
2. The Regulatory Agreement is the agreement recorded on _____ in Book _____, Page _____, in the Official Records of Sacramento County. The Regulatory Agreement contains the conditions, covenants, and restrictions running with the land and restricting the affordability of the Regulated Units on the Property as described in the following Section 3. The Regulatory Agreement is between the following parties and dated as of the following Effective Date.
 - a. Agency: City of Elk Grove
 - b. Owner: Elk Grove Pacific Associates II, a California Limited Partnership
 - c. Effective Date: July 24, 2017
3. The following affordability covenants are set forth in the Regulatory Agreement. Pursuant to the Subordination Agreement, it is agreed that the foreclosure of the mortgage securing the Senior Loan will not have the effect of terminating the affordability provisions in the Regulatory Agreement; these provisions shall remain in effect following foreclosure of the mortgage securing the Senior Loan.

APN	Rental Units	Affordability Level	Expiration Date
115-0162-033	7	Extremely low-income	55 years from the date of Certificate of Occupancy or at full City Loan repayment (whichever is later)
115-0162-033	39	Very low-income	55 years from the date of Certificate

			of Occupancy or at full City Loan repayment (whichever is later)
115-0162-033	3	Low-income	55 years from the date of Certificate of Occupancy or at full City Loan repayment (whichever is later)

4. Units listed for rental shall be rented at or below the following rates to households whose incomes are at or below the respective income limits for the rental rate:
 - a. During the period a regulatory agreement (including without limitation an extended use agreement with the California Tax Credit Allocation Committee) governing the allocation and award of federal tax credits or private activity Bonds is in effect, the maximum rent charged to and paid by a tenant for the occupancy of a Regulated Unit in the Project determined in accordance with such regulatory agreement and 26 U.S.C. Section 42 and underlying rules and regulations (“Tax Credit Law”) based on household size determinations made in accordance with Tax Credit Law; or
 - b. During any other period, the “affordable rent,” charged to and paid by a tenant for the occupancy of a Regulated Unit in the Project including a reasonable allowance for tenant-paid utilities, for the applicable household pursuant to Section 50053 of the California Health and Safety Code, as amended, or any successor statute thereto. Qualifying Rent, as defined in the Regulatory Agreement, may be adjusted annually to coincide with the increases in the California Debt Limit Allocation Committee or California Tax Credit Allocation Committee schedule of rents for the Sacramento region, whichever prevails. If Owner, as defined in the Regulatory Agreement, does not agree with the adjustment factors provided herein, Owner may, within thirty (30) calendar days of notification by City of that year’s adjustment, present to City information on which it wishes to base its annual rent adjustment. The City will review this information and, in its sole discretion, decide on which adjustment factor Owner shall base its annual rent increase. The decision of the City shall be final. Notwithstanding the above, during the period a regulatory agreement governing the allocation and award of federal tax credits is in effect, the annual rent increase shall not exceed the annual rent increase allowed by Tax Credit Law. Unless stated otherwise in this agreement, the utility allowances permitted for use shall be consistent with those allowed in Sacramento County and published annually by the Sacramento Housing and Redevelopment Agency, or any successor thereto.

5. This Notice is descriptive of the terms of the Regulatory Agreement and Subordination Agreement and is not intended to, and does not, affect any rights or obligations of the parties under those agreements. For more detailed information regarding the implementation and interpretation of the described affordability covenants, refer to the Regulatory Agreement and Subordination Agreement. This document shall not be used to interpret or modify the terms of the Regulatory Agreement, Subordination Agreement, or any other document affecting the

Property.

6. Agency acknowledges that Owner intends to subdivide the Property (the “Subdivision”) into two legal parcels, which shall be comprised of one parcel containing the Project (the “Project Parcel”) and one parcel (the “Phase 2 Parcel”). In connection therewith, Owner shall deliver to Agency each of the following, which shall be in form and substance acceptable to Owner in its reasonable discretion: (1) a proposed parcel map or other instrument evidencing the Subdivision and creation of the Project Parcel and Phase 2 Parcel, (2) a proposed Reciprocal Maintenance and Use Agreement or other instrument granting Owner and its invitees access to and over and use of such portions of the Phase 2 Parcel and Phase 2 Project, and including such other terms, as may be reasonably required by Agency (the “Reciprocal Easement Agreement”), (3) a pro forma endorsement to Agency's title policy ensuring that the Notice shall remain a valid lien upon the Project Parcel, subject only to liens and encumbrances approved by Agency, along with any other pro forma endorsements Agency may require.
7. Agency acknowledges that after the Subdivision and creation of the Project Parcel and Phase 2 Parcel, Owner intends to convey the Phase 2 Parcel to Elk Grove Pacific Associates III (the “Phase 2 Owner”). Prior to the conveyance of the Phase 2 Parcel to the Phase 2 Owner, Owner shall have delivered to Agency each of the following, which shall be in form and substance acceptable to Agency in its reasonable discretion: (i) proposed instruments evidencing the proposed conveyance of the Phase 2 Parcel to the Phase 2 Owner, and, (ii) if required by Agency, proposed execution-ready copies of partial release and reconveyance instruments releasing the Phase 2 Parcel from the liens and encumbrances of the Deed of Trust and Agency’s Regulatory Agreement recorded against the Project Parcel in connection with the Loan. Upon receipt and approval of the foregoing, Agency shall release and reconvey the Phase 2 Parcel from this Notice, Agency shall execute a partial release and reconveyance instrument releasing the Phase 2 Parcel from the liens and encumbrances of this Notice and Agency shall modify this Notice, provided that the terms of any such amendment(s) are satisfactory to the Agency. In no event shall this Loan and the Phase 2 Loan at any time be cross-defaulted or cross-collateralized. In connection therewith, if required by Agency, Agency shall receive an endorsement to its title policy as described hereunder.
8. Any capitalized term not otherwise defined in this Notice shall have the meaning given to such term in the Loan Agreement between Owner and Agency.

CITY:

CITY OF ELK GROVE,
a California municipal corporation

By: _____
Laura S. Gill
City Manager

Approved as to form:

By: _____
Jonathan P. Hobbs
City Attorney

Attest:

By: _____
Jason Lindgren
City Clerk

ALL SIGNATURES MUST BE NOTARIZED

OWNER:

ELK GROVE PACIFIC ASSOCIATES II,
a California limited partnership

By: PacH Affordable Holdings, LLC,
a California limited liability company
Its: Managing General Partner

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation
its Sole Member and Manager

By: _____
Mark A. Wiese, President

By: TPC Holdings IV, LLC,
an Idaho limited liability company doing business in California as TPC Idaho Holdings
IV, LLC
Its: Co-Administrative General Partner

By: _____
Name: Caleb Roope
Its: Manager

By: Kelley Ventures, LLC,
a California limited liability company
Its: Co-Administrative General Partner

By: _____
Name: Mike Kelley
Its: Manager

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE§ 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____,
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE§ 1189



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Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

EXHIBIT A

Legal Description

REAL PROPERTY IN THE CITY OF ELK GROVE, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, DESCRIBED AS
FOLLOWS:

PARCEL 1 AS SHOWN ON THE PARCEL MAP ENTITLED "PARCEL MAP NO. 11-023 JONE'S PARCEL MAP" FILED FOR RECORD ON DECEMBER 20, 2011 AT THE OFFICE OF THE SACRAMENTO COUNTY RECORDER IN BOOK 217 OF PARCEL MAPS, PAGE 17.

APN: 115-0162-033